MAR 2 5 1985

LABOUR RELATIONS BOARD OF B.C.

ANNUAL REPORT 1984

85-3847/

A N N U A L R E P O R T

of the

LABOUR RELATIONS BOARD OF BRITISH COLUMBIA

FOR THE YEAR

1 9 8 4

LABOUR RELATIONS BOARD OF B.C.
1275 WEST 6TH AVENUE, VANCOUVER, B.C. V6H 1A6 / 736-2421

LETTER OF TRANSMITTAL

February 28, 1985

The Honourable Robert H. McClelland
The Minister of Labour
Parliament Buildings
Victoria, B.C.
V8V 1X4

Dear Sir:

As provided in Section 151 of the Labour Code, I have the honour to submit herewith the eleventh Annual Report for the Labour Relations Board of British Columbia for the year ended December 31, 1984.

Yours very truly,

John Kinzie,
Chairman

LABOUR RELATIONS BOARD OF BRITISH COLUMBIA

MEMBERS

(as of December, 1984)

John Kinzie	Acting Chairman
Kenneth E. Albertini	Vice-Chairman and Registrar
Angus Macdonald	Vice-Chairman
Peter R. Sheen	Vice-Chairman
J. Dale Michaels	Vice-Chairman
Alex G. Markides	Vice-Chairman
Shona A. Moore	Vice-Chairman
Bryan E. Williams	Vice-Chairman
Wayne Moore	Vice-Chairman
Michael H. Davison	Vice-Chairman

Clarence J. Alcott	James R. McAvoy
Daniel John Bell	Jack A. Moore
John Macdonald Billings	Nora A. Paton
John Brown	Douglas G. Quinn
Jack Butterworth	M. Lloyd Sim
Derek Doubleday	John L. Star
Herbert Lowell Fritz	T. Wyman Trineer
Irvin Froese	H. Henry Volkmann
Doris Hanson	

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I. INTRODUCTION

Under the Labour Code, R.S.B.C. 1979, c.212, the Labour Relations Board is directed to report annually to the Minister on its activities. Section 151 states:

> 151(1) The board may report to the minister, and shall report to the minister on his request and the minister may authorize the board to publish its report.
>
> (2) The board shall, on or before March 1 each year, make a report to the minister for the preceding calendar year, setting out briefly
>
> (a) all applications to the board under this Act and summaries of the findings of the board on them;
>
> (b) other matters the board considers to be of public interest in the discharge of its duties under this Act; and
>
> (c) other information the minister directs.
>
> (3) The report referred to in subsection (2) shall be laid before the Legislature if it is then in session; otherwise the report shall be laid before the Legislature within 15 days after the opening of the next ensuing session.

This requirement for a separate report by the Board reflects the creation under Part 2 of the Code of a labour board whose structure and wider responsibilities are distinct from those of labour boards created under previous legislation. In this eleventh Annual Report on the Board's activities, we will follow the same basic format as was used in previous reports, dealing first with the main events affecting the Board during the past year, and then with the workload and pattern of decisions of the Board in the various areas of its responsibility in 1984. As well, we will recall certain events which highlighted labour-management relations in B.C. in 1984, and which were manifested in proceedings before the Labour Relations Board.

II. PERSONNEL

At the commencement of the report year, the complement of the Board was twenty-eight, composed of the Chairman: Stephen F.D. Kelleher; nine Vice-Chairmen: Angus Macdonald, Kenneth E. Albertini, Brian Foley, Peter R. Sheen, J. Dale Michaels, Bryan E. Williams, Shona A. Moore, Alex G. Markides and John Kinzie; and eighteen part-time Members: Clarence J. Alcott, Daniel John Bell, John Macdonald Billings, John Brown, Wayne G. Carkner, Herbert Lowell Fritz, Irvin Froese, John Fryer, Roy Gautier, Doris Hanson, James R. McAvoy, Jack A. Moore, Nora A. Paton, Douglas G. Quinn, Anthony Saunders, John L. Star, T. Wyman Trineer, and H. Henry Volkmann.

During 1984, there were several changes in the composition of the Board which resulted in a complement of twenty-seven at the end of the report year. Stephen F.D. Kelleher, Chairman, left the Board on July 31, 1984 to return to private practice as an arbitrator. Mr. Kelleher had served as a Vice-Chairman from January 1, 1981 and was appointed Chairman on January 1, 1982. On August 10, 1984, Brian Foley, Registrar and Vice-Chairman left the Board to assume the duties of Vice-President - Industrial Relations at B.C. Railway. Mr. Foley, after serving as a part-time Board Member since January 1, 1981, was appointed Vice-Chairman in September 1981, and appointed Registrar on August 7, 1983. Vice-Chairman John Kinzie was appointed Acting Chairman on August 1, 1984 and subsequently appointed as Chairman on January 4, 1985. Vice-Chairman Kenneth E. Albertini was appointed Registrar of the Board on August 13, 1984. Wayne Moore was appointed as Vice-Chairman on June 28, 1984, and Michael H. Davison was appointed as Vice-Chairman on August 1, 1984. Derek Doubleday, M. Lloyd Sim and Jack Butterworth were appointed as new Board

members. Clarence J. Alcott, John Macdonald Billings, John Brown, Herbert Lowell Fritz, Doris Hanson, James R. McAvoy, Nora Paton, and Douglas G. Quinn were re-appointed as Board Members. Wayne Carkner, John Fryer, Roy Gautier and Anthony Saunders resigned their positions as Board Members.

As of January 1, 1985, there were twenty-seven appointed Members, while the administrative and legal staff numbered thirty-nine.

Section 22 of the Code requires that the principal office of the Board be at or near Vancouver, the central location for labour relations activities within the Province. The Board's offices have been located at 1275 West 6th Avenue, in the City of Vancouver, since October 26, 1979.

III. RESPONSIBILITIES OF THE BOARD

The history and details of the Board's responsibilities under the Labour Code and the British Columbia Labour Relations Board Regulations were extensively discussed in the 1974 Annual Report. The 1975 Report presented three Tables providing: a historical record of the Labour Code and its amendments (Table A); statutes conferring authority on the Board (Table B); and the Regulations made pursuant to the Code (Table C). In 1977, a new table was added setting out those statutes which affect the Board's authority (Table D).

In the 1980 Report only, a brief table of concordance had been included to indicate changes in titles and chapter designations of the statutes listed in Tables A to D, as a

consequence of the proclamation of the Revised Statutes of British Columbia (R.S.B.C.) 1979. This revision and consolidation of the Public General Acts of British Columbia included certain changes in the title, language and structure of the Labour Code, as well as in many other public acts of British Columbia. The stated purpose of these changes was to provide a more uniform mode of expression in the public statutes and not for the purpose of effecting substantive changes in the law. Some pre-1979 statutes listed in Tables A to D were not included in the R.S.B.C. 1979 consolidation (they were indicated in Table E of the 1980 Report as "not consolidated"). Despite their absence from the consolidated statutes, these acts remain in full force and effect until repealed.

In addition to its mandate under the Labour Code, the Board has been charged with responsibility in labour relations matters under fourteen other statutes (Table B). By virtue of the Public Service Amendment Act, 1980, S.B.C. 1980, c.46, that part of the Public Service Act establishing the Public Service Adjudication Board, its jurisdiction and the right of parties to appear before it has now been repealed. The transitional provisions in Section 8 of the Public Service Amendment Act, 1980 allow the parties to decide how matters which were previously before the Public Service Adjudication Board are to be completed; in the absence of agreement, that Section allows for the disposition of those matters in accordance with Part 6 of the Labour Code. As a result, the Labour Relations Board has now assumed the general superintendency of the public service arbitration process and matters which previously fell within the jurisdiction of the Public Service Adjudication Board will now be heard by arbitrators on the panel of arbitrators in respect of the collective bargaining relationship between the Government of British Columbia and the British Columbia Government Employees' Union.

TABLE A

STATUTORY HISTORY OF THE LABOUR CODE

(1) THE LABOUR CODE

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code, R.S.B.C. 1979, c.212 (formerly Labour Code of British Columbia, S.B.C. 1973, (2nd Sess.), c.122)	November 13, 1973 Proclamation	12, 26, 124, 139, 140, 150	Reg. 424/74, Pt. II, V. 16, p.645
	December 20, 1973 Proclamation	21, 55	Reg. 12/74, Pt. II, V. 17, p.158
	January 14, 1974 Proclamation	1-11, 13-20, 22-25, 27-30, 32-54, 56, 59-69, 73, 92-112, 122, 123, 125-127, 138, 141-149, 150A, 151(a), 152	Reg. 41/74, Pt. II, V. 17, p.192
	January 24, 1974 Proclamation	70-72	Reg. 53/74, Pt. II, V. 17, p.195
	March 1, 1974 Proclamation	74-78	Reg. 154/74, Pt. II, V. 17, p.407
	March 14, 1974 Proclamation	113-121A	Reg. 174/74, Pt. II, V. 17, p.433
	August 15, 1974 Proclamation	57, 58	Reg. 578/74, Pt. II, V. 17, p.949
	September 2, 1974 Proclamation	31, 79-91	Reg. 606/74, Pt. II, V. 17, p.998
	September 16, 1974 Proclamation	151(b) and (c)	Reg. 682/74, Pt. II, V. 17, p.1116

TABLE A (cont.)

STATUTORY HISTORY OF THE LABOUR CODE

(2) AMENDING ACTS

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Statute Law Amendment Act, 1974, S.B.C. 1974, c.87, s.22	October 14, 1974 Proclamation	22(a) (among others)	Reg. 709/74 Pt. II, V. 17, p.1158
	June 20, 1974 Royal Assent	22(b) - 22(i) (among others)	N/A
Essential Services Continuation Act, S.B.C. 1974, c.108, s.6	August 9, 1974 Royal Assent	6 (among others)	N/A
Elevator Construction Industry Labour Disputes Act, S.B.C. 1974, c.107, s.6	November 26, 1974 Royal Assent	6 (among others)	N/A
Labour Code of British Columbia Amendment Act, 1975, S.B.C. 1975, c.33	June 26, 1975 Royal Assent	1-6, 8-33	N/A
	January 14, 1974 Retroactive Effect	7	N/A
Labour Code of British Columbia Amendment Act, 1976, S.B.C. 1976, c.26	June 30, 1976 Royal Assent	1-8	N/A
Miscellaneous Statutes Amendment Act, 1976, S.B.C. 1976, c.32	July 8, 1976 Proclamation	12A	Reg. 391/76, Pt. II, V. 19, p.511
Labour Code of British Columbia Amendment Act, 1977 S.B.C. 1977, c.72	September 27, 1977 Royal Assent	1-12	N/A

TABLE A (cont.)

STATUTORY HISTORY OF THE LABOUR CODE

(2) AMENDING ACTS

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Ministerial Titles Amendment Act, S.B.C. 1977, c.75	October 21, 1977 Proclamation	Sch. I, Ss. 8(2), 127(3), 129(a), 136, 137(1)(a)	N/A
Essential Services Disputes Act, S.B.C. 1977, c.83	October 28, 1977 Proclamation	19 repeals 73(1) to (6)	N/A
Miscellaneous Statutes Amendment Act, 1978, S.B.C. 1978, c.28	July 6, 1978 Proclamation	11 amends 69	N/A
Financial Administration Act, S.B.C. 1981, c.15	November 26, 1981 Proclamation	117 repeals 139(2)	Reg. 468/81, Pt. II, V. 24, p.981
Court of Appeal Act, S.B.C. 1982, c.7	September 7, 1982 Proclamation		Reg. 302/82, Pt. II, V. 25, p.428
Labour Code Amendment Act, 1982, S.B.C. 1982, c.59	August 4, 1982 Proclamation		Reg. 354/82, Pt. II, V. 25, p.564
Regulations Act S.B.C. 1983, c.10	October 26, 1983 Regulation	21, 25 and Schedules 2 and 16 amend 21(2), 29(1)(a), (b), 29(2), 35(c), 42(2), 59(2), 60(c), 61(2), 73(1)(a), 75, 81(5)(a), (6), 142(1), 154	Reg. 393/83, Pt. II, V. 26 p.607
Labour Code Amendment Act, 1984, R.S.B.C. 1984, c.24	June 8, 1984 Regulation	1-19 except 13	Reg. 167/84, Pt. II, V. 27, p.221
	Aug. 27, 1984 Regulation	13	Reg. 274/84, Pt. II, V. 27, p. 358

TABLE B

STATUTES CONFERRING AUTHORITY ON THE LABOUR RELATIONS BOARD

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
Labour Code, R.S.B.C. 1979, c.212	Refer Table A	1-127, 138-154	
Public Service Labour Relations Act, R.S.B.C. 1979, c.346	January 3, 1974 Proclamation	1-14, 17-28 (amendments to ss. 4, 11 and 17 yet to be proclaimed)	Reg. 14/74, Pt. II, V. 17, p.160
Assessment Authority Act, R.S.B.C. 1979, c.22	June 20, 1974 Royal Assent	21 (among others)	N/A
Institute of Technology Act, R.S.B.C. 1979, c.199	July 4, 1974 Proclamation	7	Reg. 485/74, Pt. II, V. 17, p.788
Community Resource Board Act, R.S.B.C. 1979, c.58	November 21, 1974 Proclamation	4	Reg. 781/74, Pt. II, V. 17, p.1209
Elevator Construction Industry Labour Disputes Act, S.B.C. 1974, c.107	November 26, 1974 Royal Assent	3, 5 (among others)	N/A
Hospital Services Collective Agreement Act, S.B.C. 1976, c.21	June 9, 1976 Royal Assent	7 (among others)	N/A
Ferry Corporation Act, R.S.B.C. 1979, c.128	June 30, 1976 Royal Assent	23 (among others)	N/A
Railway and Ferries Bargaining Assistance Act, S.B.C. 1976, c.48	June 15, 1976 [s.22(1)] Royal Assent on June 14, 1976	Part II (6-14)	N/A
	February 3, 1977 Proclamation	1, Pt. I (2-5)	Reg. 44/77, Pt. II, V. 20, p.198
	October 6, 1977 Proclamation	Part II (19, 20)	Reg. 422/77

TABLE B (cont.)

STATUTES CONFERRING AUTHORITY ON THE LABOUR RELATIONS BOARD

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
B.C. Buildings Corporation Amendment Act, 1977, S.B.C. 1977, c.32	August 18, 1977 Royal Assent	16A (among others)	N/A
System Act, R.S.B.C. 1979, c.399	September 1, 1977 Proclamation	17 (among others)	Reg. 349/77, Pt. II, V. 20, p.665
Essential Service Disputes Act, R.S.B.C. 1979, c.113	October 28, 1977 Proclamation	1-18 (and schedule)	Reg. 465/77, Pt. II, V. 20, p.853
College and Institute Act, R.S.B.C. 1979, c.53	October 10, 1978 Proclamation	30(8)	Reg. 463/78, Pt. II, V. 21, p.1219
	December 15, 1977 Proclamation	42 (among others)	Reg. 607/77, Pt. II, V. 21, p.357
West Kootenay Schools Collective Bargaining Assistance Act, S.B.C. 1978, c.42	December 9, 1978 Royal Assent	10 (among others)	N/A
	January 15, 1979 Proclamation	11	Reg. 8/79, Pt. II, V. 22, p.130
Public Service Amendment Act, S.B.C. 1980, c.46	August 21, 1980 Royal Assent	6-8 (among others)	N/A
Pulp and Paper Collective Bargaining Assistance Act, S.B.C. 1984, c.10	March 30, 1984 Royal Assent	1-14	N/A
	Sept. 28, 1984 repealed by Regulation		Reg. 294/84, Pt. II, V. 27, p. 476
Metro Transit Collective Bargaining Assistance Act, S.B.C. 1984, c.33	Sept. 14, 1984 Royal Assent	1-12	N/A

TABLE C

REGULATIONS UNDER THE LABOUR CODE*

Effective Date	Regulation No.	B.C. Gazette References
December 28, 1973	1-36	Reg. 522/73 Pt. II, V. 17, p.26
March 14, 1974	Amending Reg. 522/73	Reg. 162/74, Pt. II, V. 17, p.410
September 4, 1974	37-43	Reg. 601/74, Pt. II, V. 17, p.968
November 28, 1974	Amending Reg. 601/74 and 522/73	Reg. 786/74 Pt. II, V. 17, p.1202
September 24, 1975	44	Reg. 616/75, Pt. II, V. 18, p.861
December 22, 1976	45-47	Reg. 667/76, Pt. II, V. 20, p.100
March 1, 1978	48-79	Reg. 39/78, Pt. II, V. 21, p.437
August 19, 1978	80	Reg. 380/78, Pt. II, V. 21, p.1074
November 27, 1979	17(2)	Reg. 541/79, Pt. II, V. 22, p.1091
June 13, 1984	Amending Reg. 522/73	Reg. 182/84, Pt. II, V. 27, p.224

* The Lieutenant-Governor in Council is empowered by Section 150 of the Labour Code to make regulations and orders for the purpose of carrying out the provisions of the Act according to their intent. The regulations are cited as the British Columbia Labour Relations Board Regulations.

TABLE D

STATUTES AFFECTING LABOUR CODE

Statute	Date and Manner of Coming into Force	Sections in Force	B.C. Gazette References
University Act, R.S.B.C. 1979, c.419	October 7, 1977 Proclamation of s.38, Miscellaneous Statutes Amendment Act, 1977, S.B.C. 1977, c.76	80	Reg. 434/77, Pt. II, V. 20, p.767

IV. AMENDMENTS TO THE CODE

The greatest part of the Board's workload is generated by proceedings under the Labour Code. The Code was first enacted in 1973 and proclaimed in force in several stages throughout 1974. Since that time, it has been revised and clarified through various amendments. Some of these involve major substantive changes while others were purely technical refinements. Extensive revisions were made in the Amendment Act of 1975 (Bill 84), 1976 (Bill 77) and 1977 (Bill 89). Both substantive and technical revisions (described in the 1982 Annual Report) were made to the Code in the Labour Code Amendment Act, 1982, S.B.C. 1982, c.59. A number of technical revisions were made to the Code in the Regulations Act, S.B.C. 1983, c.10.

The Labour Code Amendment Act, 1984, which came into force on June 8, 1984, altered many sections of the Code, making major changes along with some technical refinements. One of the substantial alterations made was to the certification procedure under the Code. The old Sections 43, 44 and 45 were repealed and replaced by a new Section 43. Under this new Section the Board is required to order a representation vote on all applications for certification once it determines that the unit is appropriate for collective bargaining and that not less than 45 percent of the employees in the unit were members in good standing of the trade union making the application on the date the Board received the application. Expedited procedures were implemented by the Board in carrying out its mandate under this Section. Those procedures are outlined in the section on Practice and Procedure in this Annual Report. The amendments in addition set up a special certification procedure for the construction industry in the new Section 45. "Construction" and "construction project" are now defined in Section 1.

Essentially, Section 45 maintains the old procedure in which automatic certification was granted if the union had more than 55 percent of the employees in the unit as members in good standing, with the condition that the employees must be employed on a construction project. The certification granted under this section expires with the completion of the construction project.

Parallel with the new certification provisions are the amendments made to the decertification provisions of the Code. Pursuant to the new Section 52, a decertification application must be signed by 45 percent of the employees in the unit. The Board must order that a representation vote be taken in respect of the application, unless any employees in the unit are affected by an order involving an unfair labour practice complaint and the Board considers that by reason of the unfair labour practice a representation vote is unlikely to disclose the true wishes of the employees. In this case, the Board has the discretion to cancel or refuse to cancel the certification of a trade union.

Following the experience in recent labour disputes, amendments were made in the area of strikes and picketing. The Labour Code Amendment Act, 1984 amends the definition of "strike" to a new definition which provides as follows:

> 1.(1) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slowdown or other concerted activity on the part of employees that is designed to or does restrict or limit production or services, but does not include
>
> (a) a cessation of work permitted pursuant to section 83(3), or

> (b) a cessation, refusal, omission or act of an employee that occurs as the direct result of and for no other reason than picketing that is permitted by or under this Act,
>
> and "to strike" has a similar meaning;

This definition must be read in conjunction with the new Section 83(3):

> 83.(3) An act or omission by a trade union or by the employees shall not constitute a strike where it is required for the safety or health of those employees or where it is permitted pursuant to a provision of a collective agreement by which the employer agrees that employees within the bargaining unit covered by the collective agreement are not required to work in association with persons who are not members of
>
> (a) the trade union representing the bargaining unit, or
>
> (b) another trade union contemplated by the collective agreement.

By the end of 1984, the Board had not rendered a decision which involved a consideration of the effect of this amendment.

With respect to the law of picketing, the old Sections 85 and 86 have been repealed and replaced by a new Section 85. The main change implemented by this new section is the restriction of a union's right to picket without authorization to those locations set out in Section 85(3), i.e., "at or near a site or place where a member of the trade union is locked out or lawfully on strike". In addition, a union may apply pursuant to Section 85(4) for the right to picket certain other locations. Section 85(4) reads:

> 85.(4) The board may, on application and after making the inquiries it requires, permit

> picketing
> (a) at or near another site or place which the employer causing a lockout or whose employees are lawfully on strike is using to perform work, supply goods or furnish services that, except for the lockout or strike, would be performed, supplied or furnished at the site or place where picketing is permitted by subsection (3), or
> (b) at or near the place of business, operations or employment of an ally,
> but the board shall not permit common site picketing unless it also makes an order under subsection (5) defining the site or place and restricting the picketing in the manner referred to in that subsection.

The extent of some of the changes to the law of picketing have been considered in several cases that were before the Board after the amendments came into effect. In particular, the case of Slade and Stewart Ltd., BCLRB No. 317/84, deals with some of these changes and is set out in the section on Highlights in this Annual Report.

The Labour Code Amendment Act, 1984 also enacted a new Section 5 which explicitly deals with employee rights with respect to fair and reasonable conditions of membership in a union. The Board is now given the power to determine whether penalties or conditions of membership in a union are imposed for a cause that is fair and reasonable. Subsection (3) specifically provides that the failure of a person to participate in unlawful industrial action is not fair and reasonable cause for trade union discipline.

Finally, the amendments created a section dealing with Economic Development Projects. The Lieutenant Governor in Council is granted the power to designate certain economic projects, or parts of these projects, which he considers to be of special economic importance, to constitute a separate economic

development project for periods which he specifies. Once any work or activity is designated as an economic development project, the right of the trade union or employees to take certain action pursuant to Section 83(3) is determined with reference only to things done on or pursuant to that economic development project. Essentially this section limits the scope of the common site to the designated site for the purposes of the exercise of non-affiliation clauses. This section was proclaimed on August 24, 1984, at which time certain activity in relation to Expo 86 was designated under this section.

Many of the changes effected by Bill 28 were directed to substantive issues. For the purposes of this report we have focused briefly on a number of changes which will have a direct impact on the Board's functions procedurally. We have not reviewed in detail the substantive changes brought about by the amendments at this time.

V. HIGHLIGHTS

A. Pulp Industry Dispute

The master collective agreements in British Columbia's forest industry expired in mid-1983. During the fall of 1983 the three main unions representing employees in the forest industry - International Woodworkers of America ("IWA"), Canadian Paperworkers Union ("CPU") and the Pulp, Paper and Woodworkers of Canada ("PPWC") engaged in collective bargaining negotiations with the various forest industry companies. These forest industry companies are represented by a number of accre-

dited employer organizations. Forest Industrial Relations ("FIR") represents companies west of the Cascades to the U.S. border. The North Cariboo Forest Labour Relations Association ("NCFLRA") represents companies in the northern interior of British Columbia north of the Thompson River. The Interior Forest Labour Relations Association ("IFLRA") represents companies in the southern interior of British Columbia. The employers' organizations and three independent companies, Crestbrook Forest Industries Ltd., Northwood Pulp & Timber Limited and Weldwood of Canada Limited, formed a superboard called Forest Industrial Relations Council ("FIRC"). A steering committee of the FIRC was responsible for negotiations with both the pulp and wood products divisions with the objective of trying to ensure an evenhandedness in the collective agreements negotiated within the industry. On November 29, 1983, all three unions were simultaneously presented with an offer which was identical in its essentials. After some changes, the IWA came to an agreement and a Memorandum of Settlement was drawn between FIRC and the IWA on December 10, 1983, with ratification effective February 14, 1984.

The Pulp and Paper Industrial Relations Bureau ("PPIRB") is an accredited employers' organization representing 20 operations owned by 14 companies and this organization negotiates with the two pulp unions; the CPU and the PPWC. The PPIRB determined that in order to maintain labour peace in the forest industry there must be standardization between the three forest industry unions. The PPWC and the CPU had objected to certain issues contained in the offer which had been accepted by the IWA. The PPIRB took the position that the CPU and the PPWC must return to the bargaining table by February 1, 1984, or they would be locked out. The CPU and the PPWC refused and, on February 1, 1984, a lockout was imposed throughout the pulp industry. The lockout action was taken in the context of the

PPIRB position that the principal terms of the three year agreement with the IWA must apply as well to the CPU and the PPWC.

After approximately three weeks of the lockout, CPU and PPWC members commenced picketing activity at sawmill operations owned and operated by the members of PPIRB. Employees working in the sawmill operations who were represented by the IWA or locals of the PPWC refused to cross the picket lines set up by CPU and PPWC locked out employees. The Labour Relations Board received 39 applications, a number which represents close to 20 percent of all Part 5 applications received in the reporting year, from forest industry employers asking the Board to restrict this picketing activity. Of these, eight applications were settled through the informal processes of the Board with the help of its Special Investigating Officers.

The applications to the Labour Relations Board requesting that picketing be restrained at the sawmill operations, were brought pursuant to Section 88 or, alternatively, Section 85(2) of the Labour Code. The PPWC and the CPU opposed those applications on the grounds that they had a legal right to picket pursuant to Section 85(1)(a) of the Labour Code and that therefore the Board did not have the authority to prohibit picketing under Section 85(2). In the alternative, the two unions argued that they had the right to picket the sawmills pursuant to Section 85(1)(b) and that in the circumstances of these cases, the Board should not exercise its discretion to prohibit that picketing pursuant to Section 85(2). These sections of the Labour Code have since been amended by the Labour Code Amendment Act, 1984, but at the time of this dispute they read as follows:

> 85.(1) A trade union, a member or members of which are lawfully on strike or locked out, or a person authorized by the trade union, may picket at or near
>
> (a) the site or place of the lockout or lawful strike;
>
> (b) all other sites or places of business, operations or employment of the employer, including
>
> (i) a place where an employee of that emplyer is carrying on the business of that employer, whether the place is owned or controlled byu the employer or not; and
>
> (ii) a place that the emploer operates or where the employer does any thing forming part of the operation of his business; and
>
> (c) the place of business, operations or employment of an ally of the employer, but this paragraph does not apply until the board has first determined that the person to be picketed is an ally in respect of whom picketing should be allowed.
>
> (2) Subsection (1)(b) does not apply where a collective agreement is in force between the trade union or another trade union and the employer at the site or place referred to in subsection (1)(b) whose employees are locked out or on strike, and the board, in its discretion, prohibits picketing.

Section 88 of the Code provides as follows:

> 88. Except as provided in this Act, a person shall not picket in respect of a matter or dispute to which this Act applies.

In some of these cases, the Board had to determine whether the employer of the locked-out pulp mill employees and the employer of the sawmill employees where the picketing was occurring were under common control or direction and whether, in the Board's opinion, the business or activities of the two employers were associated and related such that the two

employers should be treated as one employer pursuant to Section 37 for the purposes of the picketing provisions of the Code. In 11 cases, the Board declined to make such a determination. In those circumstances, the Board found that the picketing of the sawmill constituted a violation of Section 88 of the Labour Code and ordered that picketing cease (See for example: MacMillan Bathurst Inc., BCLRB No. 87/84).

In 20 of the applications, the Board determined that the employer of the locked-out employees and the owner of the sawmills should be treated as one employer (See for example: Crown Forest Industries Limited, BCLRB No. 85/84). In these cases, the Board was asked to exercise its discretion to prohibit picketing at the sawmill locations, pursuant to Section 85(2).

With respect to an application under Section 85(2), the Board was concerned with whether the picketing constituted an excessive or disproportionate escalation of the bargaining dispute. The Board looked at a number of factors in answering this question. One factor was the degree of functional integration between the pulp operation and the sawmill operation. In this respect, the Board considered functional integration of management, marketing, purchasing, training and personnel/industrial relations functions. Another factor the Board considered was the size of the bargaining unit which had been locked out and was engaging in the picketing in relation to the size of the operation which had been closed down due to the picketing. In the majority of the cases heard by the Board during this dispute, the number of employees locked out and the number of employees refusing to cross the picket lines, were approximately the same. The Board also considered whether the employees being forced out of work by the picketing activity were represented by the same trade union that had authorized

the picketing. That was regarded as a significant factor because a common bargaining agent gave some assurance of a degree of self-restraint. Another factor considered by the Board was whether the picketing was being undertaken for the purpose of achieving a better agreement than that made with the union representing the employees at the picketed location; in this case whether the PPWC and the CPU were trying to achieve better terms than those agreed to by the IWA. The Board determined that, during this dispute, these were not situations where one union was simply seeking to improve upon the collective agreement reached by another union. Rather, the Board was persuaded that the CPU and the PPWC were, by their picketing activity, exerting legitimate pressure in an attempt to continue collective bargaining to achieve a collective agreement appropriate to their operation.

Consequently, after balancing all of the factors, in the majority of cases, the Board was not persuaded that the picketing was a disproportionate or undue escalation of the collective bargaining dispute between the CPU and the PPWC and their respective employers, and it did not therefore limit or prohibit picketing at the sawmill operations.

On June 8, 1984, the Labour Code was amended and the picketing provisions of the Code were changed. In the Board's first decision dealing with those amendments, Slade and Stewart Ltd., BCLRB No. 317/84, (1984) 7 CLRBR (NS) 258, the Board discussed the effect of the these changes by reference to the 1984 pulp dispute. The Board stated:

> " That the focus for permissible picketing has been changed from the employer and his business to the employees and their work is reinforced by the provisions of Section 85(4) of the Labour Code. In general terms, Section

> 85(4) provides that if the work of the striking or locked-out employees is shifted to another location of the employer or to a third party employer, the Board may permit picketing at those employer locations to which the work has been shifted or the place of business, operations or employment of the third party employer or ally.
>
> The effect of this change can be illustrated by returning to the example of the picketing in the 1983-84 pulp dispute. In that dispute, picketing of the employer's sawmills was permitted under the former Section 85(1) of the Labour Code because the employer also carried on his business at that location and received revenues from its operation. However, under the new Section 85(3), the locked-out pulp employees would not be entitled to picket the sawmills operated by their employer because it would not be a location where they performed work for their employer."
>
> (at 9-10)

For further discussion about the effect of this section, see Section 85(3) and the Slade and Stewart Ltd., supra, decision, in Part B.

B. Picketing: Section 85(3) of the Labour Code

In Slade and Stewart Ltd., supra, the Board for the first time dealt with the scope of picketing permitted by the new Section 85(3). Section 85(3) provides as follows:

> 85.(3) A trade union, a member or members of which are lawfully on strike or locked out, or a person authorized by the trade union, may

> picket at or near a site or place where a member of the trade union is locked out or lawfully on strike.

Slade and Stewart Ltd., the employer, is a wholesale fruit and vegetable company and operates three wholesale outlets in British Columbia certified to the union, the Retail Wholesale Union, Local No. 580. Customers of the employer either pick up their own orders at one of the employer's three outlets or have the employer deliver the order to the customer's place of business. Employees load the goods onto delivery trucks at the employer's outlet and then drop the goods at the location specified by the customer; each drop off of goods takes between 15 to 30 minutes to complete, depending upon the size of the order. The employer and the union were engaged in collective bargaining but, after reaching an impasse, the employer locked out its employees, hired replacement employees, and was thus able to continue operations. From the beginning of the labour dispute, members of the union picketed the three warehouse operations and as well, picketed the customer's site during the time only, that the employer's truck was dropping off the customer's order.

The Board answered two questions arising from these facts. First, were the employer's delivery trucks, <u>while they were in transit</u> from the employer's warehouse to places where customers take delivery of the goods being transported in the trucks, subject to lawful picketing under Section 85(3)? Secondly, is <u>the place where the customer takes delivery of the goods</u> from the employer's delivery trucks subject to lawful picketing under Section 85(3)?

The Board considered the words used in the new Section 85(3) of the Labour Code in the context of the statute as a

whole, and concluded that that provision limits picketing by members of a trade union, to sites or places where the employees performed work on behalf of their employer and where now, as a result of the strike or lockout, they have ceased to work. The focus for permissible picketing is now upon the employees and the locations where they perform work for their employer. If employees cease to perform work at those locations as a result of a lawful strike or lockout, and those locations constitute sites or places within the meaning of Section 85(3) of the Labour Code, the employees will be entitled to picket at those locations, subject to Section 85(5) of the Labour Code.

The Board said also that there is no basis for requiring that a significant or substantial amount of work must be performed at a location in order for it to be found to a "site or place where a member of the trade union is locked out or lawfully on strike" within the meaning of Section 85(3). The Board considered the definition of the words "picket" and "picketing" as defined in the Labour Code, determining that the purpose of picketing is to persuade or attempt to persuade third parties not to deal with the employer. This activity has the objective of reducing the flow of revenues to the employer during the dispute and more specifically, the purpose of picketing is to persuade or attempt to persuade a third party not to enter a place where the employer carries on business, operations, or employment, not to deal in or handle the employer's products, or to do business with the employer. Therefore, a "site or place" within the meaning of Section 85(3) must involve a location where the purposes contemplated by picketing could be achieved, i.e., where third parties may be persuaded not to deal with the employer.

Upon the facts of this case, the Board concluded that third parties did not deal with the employer in the delivery truck while it was in transit and for that reason a delivery truck while in transit, is not a "site or place" within the meaning of Section 85(3) of the Labour Code. The Board concluded that picketing was permissible at the location where the delivery truck was unloaded and the customer took delivery of the goods because (1) employees of the employer performed work at the location on behalf of the employer, (2) the employees had ceased to perform that work because of the lockout, and, (3) that location was a "site or place" within the meaning of Section 85(3) of the Labour Code because it was at that location that the customer dealt with the employer.

The employer subsequently petitioned the Supreme Court of British Columbia for judicial review but that application was dismissed in Slade and Stewart Ltd. v. Retail Wholesale Union, Local 580 et al, B.C.S.C. Vancouver No. A842426, Meredith, J., September 17, 1984 (unreported).

VI. PRACTICE BEFORE THE BOARD: PROCEDURAL MEMORANDA

The Board's memoranda concerning its procedures with respect to (1) hearings; (2) applications concerning whether a person is an employee and whether a person is included in or excluded from a bargaining unit (Section 34(1)(a) and (L)); (3) unfair labour practice applications (Section 3(3)(a) and (c)); (4) duty of fair representation applications (Section 7(1)); and (5) common employer applications (Section 37) and successorship applications (Section 53) in the construction industry

were published in the 1983 Annual Report. Those procedures continued to apply in 1984.

On June 15, 1984, the Board issued a procedural memorandum in response to the amendments to the certification provisions of the Code enacted by the Labour Code Amendment Act, 1984.

> " One of the changes made to the Labour Code is a revised Section 43.....
>
> The new Section 43(1) contemplates that a representation vote will be conducted before certification is granted.
>
> The Board has decided to implement immediately an expedited procedure for applications for certification in respect of units of unorganized employees. The new procedure can be summarized as follows:
>
> 1. An application for certification shall be filed in duplicate with the Board at 1275 West 6th Avenue, Vancouver, B.C. V6H 1A6. At the same time, and in order to expedite processing of the application, a copy may be delivered by the applicant to the office of the Ministry of Labour in the region where the employer is located.
>
> 2. Once the Board has received the application, the employer will be advised immediately by telephone of the application. Also, both the employer and the applicant will be advised by telephone of the date, time, and place of a Board hearing to consider any objections to the application. The Board hearing will be set approximately seven calendar days from the date of the Board's receipt of the application for certification. A written notice concerning the hearing will be provided to the employer for posting at its business premises for a period of seven days.
>
> 3. In the seven day period from the date of the Board's receipt of the application for certification and the date of the Board

hearing, an Officer appointed by the Board will conduct an investigation to determine the merits of the application. All the parties involved are required to provide the necessary information. The Officer's report will be provided to the Board in advance of the Board hearing.

4. During the course of the investigation, the Officer will notify the parties of a tentative date for a representation vote which the Board may order to be conducted. The representation vote will be conducted approximately three calendar days from the date of the Board hearing.

5. The Board hearing will proceed as scheduled. If no objections are raised to the application for certification, the Board will determine if a representation vote should be held on the basis of the information provided by the Investigating Officer. If objections are raised to the application for certification, they will be heard on the day of the Board hearing. At the conclusion of the hearing, the Board will decide at that time if a representation vote should be held.

6. If a representation vote is ordered, it will be held on the date that has been tentatively set by the investigating Officer. If there is any dispute at that time concerning the voting constituency, the ballot box will be sealed until the disputed ballot(s) issue is decided by the Board. If there is no dispute about ballots cast, the votes will be counted and the results forwarded to the Board for a final decision respecting the certification application.

In accordance with the foregoing procedures, a representation vote will, under normal circumstances, be conducted approximately ten calendar days after the Board has received the application for certification."

VII. THE WORK OF THE BOARD IN 1984

In 1984, the Board received 4696 applications. This caseload represents a decrease from the 1983 figure of 4985. The Board disposed of 4700* applications in 1984, a decrease from the 4995 applications disposed of in 1983 (The statistical assumptions on which these and other figures are based are stated at the beginning of Part VIII of this Report - Statistical Appendix). This volume of cases must be administered by a Board which, under Section 13 of the Code, may legally sit at one time in any one of ten different Panel arrangements. To deal effectively with its workload, the Board has adopted certain procedural approaches which will be described in general terms here, before the details of the Board's decisions in 1984 are reviewed.

A large number of cases are processed on a strictly administrative basis. The application or complaint is investigated by an Industrial Relations Officer of the Ministry of Labour who files a report with the Board. This report, together with the submissions of the parties, is reviewed by a Panel of the Board, usually consisting of the Chairman or one of the Vice-Chairmen. In cases that are clear and uncontested a decision is made without a hearing. Under the Board's revised procedure with respect to applications for certification for units of unorganized employees, however, a hearing is always held. That revised procedure came into effect in June, 1984 (see Part VI of this Report - Practice Before The Board).

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* Including some applications carried over from 1983.

In cases which are contested, the Board attempts to achieve a settlement before proceeding to the stage of a formal hearing and adjudication. This settlement procedure involves an attempt at mediation by the Industrial Relations Officer, by the Registrar and his staff, and/or by a Panel of the Board at a hearing. This policy is especially important in the following areas of the Board's work: unfair labour practice complaints, disputes under a collective agreement brought to the Board under Section 96(1), and strikes and picketing complaints. In these areas, the Board successfully achieves a voluntary accommodation in approximately two-thirds of the cases (see Table 4).

Hearings

Finally, contested cases which are not settled and which cannot be decided upon the basis of the materials on file, may be the subject of a hearing before the Board. Also, since June of 1984, all applications to certify unorganized employees have been heard expeditiously by the Board. Any objections to the application for certification are raised at the hearing. Hearings are conducted by a Panel usually consisting of three members, and sometimes consisting of one or five members. To accommodate the parties to a dispute, hearings are often held at their request on short notice and at various places throughout the Province. The Board often arranges informal meetings between the parties and one or more Board members, with the intention of forestalling formal litigation. In 1984, the Board held 499 formal hearings (an increase of 180 from the previous report year). This number included 128 expedited certification hearings.

Published Decisions

In contested cases that are unresolved by the parties, the Board's general practice has been to give extensive written reasons for its decisions. These formal decisions explain the Board's findings to the immediate parties and lay down general guidelines about the Board's policy and interpretation of the Code. The formal decisions are numbered and are made available to unions, employers, counsel, and other interested parties.

In addition to its formal decisions, the Board has continued to issue decisions which contain brief reasons or no reasons at all and which have no precedential value other than to the particular parties to the application.

Decisions which the Board believes will constitute important precedents for the future are published in a series entitled The Canadian Labour Relations Boards' Reports (New Series), which is published by Butterworth & Co. (Canada) Ltd.

Applications for Reconsideration

Section 36 of the Labour Code provides as follows:

> 36.(1) The board may, on application by any person, or on its own motion, reconsider a decision or order made by it or by a panel under this Act, and may vary or cancel the decision or order.
>
> (2) For the purposes of this Act the certification of a trade union and the accre-

ditation of an employers' organization are decisions of the board.

Under Section 36 of the Labour Code, a large number of applications are made to the Board for variances in the details of an existing certification or accreditation (see Section 'D' of this Part and Tables 1-4).

In addition, requests for reconsideration of decisions of the Board are also handled through the vehicle of Section 36. In 1984, the Board received 208 applications for reconsideration of this latter kind -- essentially appeals -- and 211* such applications were disposed of in the year. Of these, 28 were withdrawn, 143 were dismissed, and 40 resulted in a change in the original decision (see Tables 1-4 and Table 13).

The procedure for reconsideration of decisions by the Labour Relations Board is as follows. Whether or not a hearing has been held, a party has 15 working days from the issuance of the Board's decision to request reconsideration of that decision. In all cases, a Panel of the Board makes an initial determination about whether the stated basis for the reconsideration asserts a prima facie case for review of the original decision. Where a request for reconsideration is made, the parties are invited to file detailed written submissions, which can be developed further in oral argument if the Board decides to conduct a hearing. In a small number of cases which are of special significance to the labour relations community, the Board has invited representations from employer or trade union organizations to assist the Board in understanding the broader implications of its rulings.

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* Including some applications carried over from 1983.

This procedure for reconsideration provides a back-stop by which the Board is able to avoid or correct inadvertent errors and undo any miscarriages of procedural justice which may have occurred in the regular flow of its large caseload. It also allows the Board to ensure that different panels of the Board properly interpret the law and policy of the Labour Code. For a fuller discussion of the Board's policy with respect to applications for reconsideration see: The Corporation of the District of Burnaby, BCLRB No. 25/74, [1974] 1 Can LRBR 128; and Western Cash Register (1955) Ltd., BCLRB No. 84/77, [1978] 2 Can LRBR 532.

"Success" Rate of Appeals

	1980	1981	1982	1983	1984
Total Applications Disposed of	140	171	161	189	211
Number of These Withdrawn	18	34	18	22	28
Number of Applications Processed to a Final Decision	122	137	143	167	183
Number of Applications Resulting in a Revision of the Original Decision	46	37	18	38	40
"Success" Rate of Appeals	38%	27%	13%	23%	22%

With this preface regarding the Board's caseload and method of operation, we can now turn to the major areas of the Board's jurisdiction.

A. Certifications

The largest group of decisions made by the Board is in respect of applications for certification brought under Section 39 of the Code.

> 39.(1) Where a collective agreement is not in force and a trade union is not certified as bargaining agent for a unit appropriate for collective bargaining, a trade union claiming to have as members in good standing not less than 45% of the employees in that unit may at any time, subject to the regulations, apply to the board to be certified for the unit.
>
> (2) A trade union claiming to have as members in good standing a majority of employees in a unit appropriate for collective bargaining may, subject to the regulations, apply to the board to be certified for the unit where
>
> (a) a collective agreement is not in force, and either
>
> (i) 6 months have elapsed since the date of certification of a trade union for the unit; or
>
> (ii) the board has consented to an application before the expiry of the 6 months; or
>
> (b) a collective agreement is in force, only during the period.
>
> (3) Notwithstanding subsection (2), where
>
> (a) one or more applications have been made during a period, regardless of the outcome; or
>
> (b) the board, pursuant to section 57(3), certifies a council of trade unions as bargaining agent for a unit, or varies a certification by substituting for the trade union or trade unions named in it a council of trade unions as the bargaining agent for a unit,
>
> a trade union may not apply to be certified for that unit or, in the case of a council of trade unions, for a constituent part of the unit, until the second period after the date of the application, the certification or the

variation of a certification, whichever is latest.

(4) Notwithstanding subsections (2)(b), 3(a) or 3(b),

(a) a trade union that is a party to a collective agreement, but is not certified for the employees covered by it, may apply to be certified at any time; and

(b) a council of trade unions comprised of trade unions that are parties to collective agreements may apply to be certified at any time in place of those trade unions.

(5) Two or more trade unions claiming to have together as members in good standing a majority of employees in a unit appropriate for collective bargaining may join in an application under this Part, and the provisions of this Act relating to an application by one trade union, and all matters or things arising from it, apply to the application and those trade unions as if one trade union were applying.

(6) In this section "period" means the seventh and eighth months in each year of a collective agreement or a renewal or continuation of it.

Section 39 provides for two different kinds of applications, each with its own legal requirements. Under Section 39(1), a union may seek certification for a group of previously unorganized employees, i.e., those not subject to an existing certification or collective agreement. Section 39(1) provides that, in order for a union to make such an application, it is required to have a minimum membership support of 45%. Section 39(2) provides that a union may seek certification for a group of employees already represented by another union. The minimum membership requirement in such cases is more than 50% and the application is subject to certain timing requirements, i.e., it must be made at a specified interval following the earlier certification or at a specified period during the term of a collective agreement. Section 39(5) makes special provision

for a joint application for certification by a number of unions. This section was used twice in the report year 1984.

The provisions of the Code which govern the Board's disposition of certification applications were amended by the Labour Code Amendment Act, 1984 which came into force on June 8, 1984. Those provisions are discussed in the next section of this part headed "Representation Votes".

The Board processed 376 certification applications in 1984. This represents a decrease from the 678 applications processed in the report year 1983. Of the 376 applications processed in 1984, 72 were withdrawn (for a variety of reasons) leaving 304 to be formally decided by the Board. The majority of this number, 279 to be exact, were applications made in respect of previously unorganized employees. The remainder, 25 in number, involved employees then represented by a union.

Of the 279 applications under Section 39(1), a total of 55 were dismissed for reasons enumerated in Table 7. A total of 15 applications were found to be beyond the Board's jurisdiction, either on constitutional grounds or based on the definition of "unit" and/or "trade union". In another five cases, applications were rejected in circumstances where the employees were to be represented by a different union or where an existing certification was varied to include the employees for whom the application was made. Accordingly, of those cases within the Board's jurisdiction, 35 certification applications (13.5%) were denied in situations where the result was to leave the employees without any union representation.

The Board disposed of another 25 certification applications under Section 39(2) in respect of employees already represented by another union. This number represented about 9% of the

total certification decisions in 1984. Twenty-three applications were contested. The remaining two applications were either uncontested or were made in an attempt to fragment or enlarge an existing unit. Of the 25 applications, all were made during the term of an existing collective agreement. The applicant union was successful in obtaining certification in 14 of the 25 cases. In one case, the application for certification was dismissed but an existing certification was varied to include the employees. The incumbent union retained its certification in the remaining 10 cases.

Since the subject of certification applications under Section 39(2) (or "raids" as they are commonly termed) has continued to generate considerable discussion in the labour relations community in British Columbia, it may be useful to present the pertinent data regarding the number of employees involved in such cases. In 1984, applications under Section 39(1) involved 3954 employees, of whom 2762 obtained union representation. By contrast, inter-union contests under Section 39(2) involved 1798 employees, with a resulting change in union representation for 1437 of these employees. (See Table 8.) A review of the Board's files indicates that, of the total 23 cases and 1798 employees, four inter-union rivalries resulted in more than one application and affected 761 employees (42%).

Inter-union contests between the Construction and General Workers' Union and the Service Employees International Union produced 4 applications involving 533 employees; between the Hotel & Restaurant Employees' and Bartenders' Union and the Canadian Hotel and Allied Workers Local 1, Canadian Association of Industrial, Mechanical and Allied Workers, 3 applications involving 135 employees; between the Hotel & Restaurant Employees' and Bartenders' Union and the B.C. Hospitality

Workers Union, 3 applications involving 76 employees; between the United Brotherhood of Carpenters and Joiners of America and the International Association of Machinists and Aerospace Workers, 3 applications involving 17 employees. The balance of the contests affected a wide variety of unions.

In 1984, the number of employees receiving certification was 4199, a decrease from the 6099 employees receiving certification in 1983. The number of employees involved in a contested change of union representation increased from 1134 in 1983 to 1437 in 1984.

B. Representation Votes

Prior to the amendments to the Code which came into force on June 8, 1984, the now repealed Section 45 of the Code contained the criteria which governed the Board's disposition of certification applications. Section 45(1) contained two alternative standards. Either more than 55% of the employees in the unit had to be members in good standing of the applicant trade union as of the date the Board received the application for certification or a majority of the employees in the unit had to express their wish to be represented by the applicant trade union through a representation vote. Under the now repealed Section 43(2), where not less than 45 percent and not more than 55 percent of the employees in the unit were members in good standing of the applicant trade union, the Board was required to direct that a representation vote be taken among the employees in the unit.

Now, pursuant to the amendments enacted by the Labour Code Amendment Act, 1984, a representation vote is required in all applications for certification, except for those made under the amended Section 45 of the Code (Section 45 is described in Part IV of this Report - Amendments to the Code).

The amended Section 43(1) of the Code provides as follows:

> 43.(1) Where the board receives an application for certification under section 39 and the board determines, after investigations it requires, that the unit is appropriate for collective bargaining and that on the date the board received the application not less than 45% of the employees in the unit were members in good standing of the trade union making application, the board shall order that a representation vote be taken, and the board shall,
>
> (a) certify the trade union as bargaining agent for the unit where a representation vote has been held in which the majority of the votes included in the count favour having the trade union represent the unit as bargaining agent, or
>
> (b) where a representation vote has been held in which the majority of votes included in the count are not in favour of having the trade union represent the unit as bargaining agent, refuse to certify the trade union as bargaining agent for the unit.

Under the amended Section 43(1) of the Code, where the Board receives an application for certification under Section 39, the Board must make three determinations: (1) is the applicant a trade union within the meaning of the Code, (2) is the unit appropriate for collective bargaining and (3) on the date the Board received the application, were not less than 45 percent of the employees in the unit members in good standing of the applicant trade union. If the Board answers each of

those three questions in the affirmative, then it will order that a representation vote be taken. Where a representation vote is held and the majority of the votes included in the count favour having the trade union represent the unit as bargaining agent, the Board will certify the trade union.

The amended Section 52 of the Code provides for a procedure by which the certification of a trade union may be cancelled on application by the employees in the unit. Subject to the timing restrictions set out in Section 52(3), where not less than 45 percent of the employees in the unit sign an application for cancellation of the certification, the Board will order that a representation vote be taken. However, pursuant to Section 52(5), the Board may refuse to order a representation vote and refuse to cancel a trade union's certification where any employees in the unit are affected by an order of the Board concerning an unfair labour practice and the Board considers that by reason of the unfair labour practice, a representation vote is unlikely to disclose the true wishes of the employees. Where a representation vote is held, and the majority of the votes included in the count are against having the trade union represent the unit as bargaining agent, then subject to Section 52(5), the Board will cancel the union's certification.

The amended Section 55(3) and (4) of the Code addresses the question as to who is eligible to vote in a representation vote.

> 55.(3) All persons who are employees within a unit at the time an application for certification or decertification is received by the board, and who remain employees within the unit at the time of the vote, are eligible to vote in a representation vote with respect to the application.

> (4) If the board in its discretion directs that they may vote,
>
> (a) persons who, at the time an application for certification was received by the board, were not employees within the proposed unit, but who are employees within the unit at the time of the vote, and
>
> (b) persons who, at the time an application for decertification was received by the board, were employees within the unit, but who are not employees within the unit at the time of the vote,
>
> are eligible to vote in a representation vote.

Where an objection to a person's eligibility to vote is raised, the Board's normal practice is to allow the person to cast a ballot, and have the ballot segregated and sealed. After the completion of the voting and before the votes are counted, the Board will decide the issue of the person's eligibility to vote pursuant to Section 55(3) and (4).

Apart from the amended Sections 43 and 52, there are other provisions in the Code which allow the Board to order that a representation vote be taken. Under the successorship provision of the Code, which deals with the labour relations consequence of a sale or other disposition of a business, the Board may order that a representation vote be taken, in order to determine which trade union shall be the bargaining agent for any unit created as a result of the successorship (Section 53(2), (3)). The Board may also order that a representation vote be taken before declaring that one trade union has acquired the rights of another trade union, by reason of a merger, amalgamation or transfer of jurisdiction (Section 54(2)). The amended Section 40 of the Code requires the Board to conduct a representation vote before issuing a multi-employer certification. Representation votes are used to determine consent to trade union representation by dependent contractors (Section 48(1)) and by professional employees (Section

153(2)). Finally, representation votes are used to determine whether a proposed council of trade unions is representative of the employees in the proposed bargaining unit (Section 57) (For statistics on the Board's use of the representation votes described here, see Statistical Appendix page 76 and Table 9).

C. Unfair Labour Practices and Remedies

Section 2 of the Labour Code states that "every employee is free to be a member of a trade union and to participate in its lawful activities". The scope of this freedom is defined and protected by a network of legal restrictions on the conduct of either employers or trade unions which may infringe upon the exercise of such freedom.

Section 5 prohibited a person from using coercion or intimidation of any kind which might compel or induce a person to be or not to be a union member. It was repealed by the 1984 amendments and a new Section 4(3) was enacted. Section 4(3) prohibits coercion or intimidation by a trade union which might compel or induce a person to be or not to be a trade union member.

> 4.(3) A trade union or person acting on its behalf shall not seek, by the use of coercion or intimidation of any kind, to compel or induce a person to become, refrain from becoming or continue or cease to be a member of the trade union or another trade union.

Section 3 contains a series of specific directives to employers which are of special importance in a union organizing campaign.

> 3.(1) An employer or a person acting on his behalf shall not participate in or interfere with the formation or administration of a trade union or contribute financial or other support to it.
>
> (2) An employer may, notwithstanding this section, permit an employee or representative of a trade union to confer with him during working hours or to attend to the trade union's business during working hours, without deducting time so occupied in computing the time worked for the employer and without deducting wages for that time.
>
> (3) An employer or a person acting on his behalf shall not
>
> (a) discharge, suspend, transfer, lay off or otherwise discipline an employee, refuse to employ or continue to employ a person or discriminate against a person in regard to employment or a condition of employment because the person
>
> (i) is or proposes to become, or seeks to induce another to become, a member or officer of a trade union; or
>
> (ii) participates in the promotion, formation or administration of a trade union;
>
> (b) impose a condition in a contract of employment that seeks to restrain an employee from exercising his rights under this Act;
>
> (c) seek by intimidation, by dismissal, by threat of dismissal, or by any other kind of threat, or by the imposition of a penalty, or by a promise, or by a wage increase, or by altering any other terms of employment, to compel or to induce an employee to refrain from becoming, or continuing to be, a member or officer or representative of a trade union;
>
> (d) use, or authorize or permit the use of, a professional strike breaker or an organization of professional strike breakers; or
>
> (e) refuse to agree with a trade union, certified as the bargaining agent for his employees under this Act who have been engaged in collective bargaining to conclude their first

> collective agreement, that all employees in the unit, whether or not members of the trade union, but excluding those exempted under section 11, will pay union dues from time to time to the trade union,
> but, except as expressly provided, this Act shall not be interpreted to limit or otherwise affect the right of the employer to
> (f) suspend, transfer, lay off or discharge an employee for proper cause;
> (g) communicate to an employee a statement of fact or opinion reasonably held with respect to the employer's business; or
> (h) make a change in the operation of the employer's business reasonably necessary for the proper conduct of that business.

The employer may not interfere in the formation of the union or favour one union over another; it may not refuse to hire because of union membership or manipulate working conditions to discourage unionization; it may not threaten loss of jobs or plant shutdown in the event of certification. Of prime importance is the legislation governing the discharge of an employee for union membership or activities. Recognizing the serious impact this can have on employees and the difficulty the union has in establishing the employer's motivation, the Code places on the employer the onus to establish affirmatively that such a discharge did not stem, even in part, from an improper anti-union purpose (see Section 8(6)).

The employer's right to run its business efficiently and without the interference of a union organizing campaign during working hours is protected by Section 4(1) and (2).

> 4.(1) Except with the employer's consent, a trade union or person acting on its behalf shall not attempt, at the employer's place of employment during working hours, to persuade an employee of the employer to join or not join a trade union.
> (2) Where employees reside on their employer's property or on property to which he

> or another person has the right to control access or entry the employer or other person shall on the board's direction permit a representative authorized in writing by a trade union to enter the property to attempt to persuade the employees to join a trade union. If directed by the board and on request by the representative, the employer shall provide him with food and lodging at the current price, and of a similar kind and quality as that provided to the employees.

Once a trade union is certified, Section 6 requires both the employer and the union to bargain in good faith and make every reasonable effort to conclude a collective agreement.

> 6. A trade union or employer shall not fail or refuse to bargain collectively in good faith in the Province and to make every reasonable effort to conclude a collective agreement; but where a trade union and the employer have concluded a collective agreement outside the Province, it is invalid in the Province until a majority of the employees in the Province covered by the agreement ratify it.

Since certification gives the union the exclusive legal authority to bargain on behalf of all employees, Section 7 prohibits the union from acting in a manner which is arbitrary, discriminatory, or in bad faith, in the representation of any of these employees.

> 7.(1) A trade union or council of trade unions shall not act in a manner that is arbitrary, discriminatory or in bad faith in representing any of the employees in an appropriate bargaining unit, whether or not they are members of the trade union or of a constituent union of the council.
>
> (2) An employers' organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in representing any of

the employers in the group appropriate for collective bargaining.

The new Section 5, as stated in the portion of the Annual Report describing the 1984 Code amendments, deals with employee rights with respect to fair and reasonable conditions of membership in a union.

5.(1) In this section
"industrial action" means
(a) a strike,
(b) picketing, and
(c) any other act or omission by employees or by a trade union that interrupts or restricts any business operation or employment;
"unlawful industrial action" means industrial action that is prohibited by or under this Act.
(2) No trade union shall
(a) expel, suspend or impose a penalty on a member or refuse membership in the trade union to any person, or impose any penalty or make any special levy on any person as a condition of admission to membership of the trade union or council of trade unions except for a cause which is in the board's opinion fair and reasonable, or
(b) charge, levy or prescribe initiation fees, dues or assessments that are deemed by subsection (4) to be discriminatory, or that are in the board's opinion unreasonable or discriminatory.
(3) The fact that a person has
(a) not participated in unlawful industrial action,
(b) entered a place of business, operations or employment in respect of which unlawful industrial action was occurring,
(c) dealt in or handled products of a person at whose place of business unlawful industrial action was occurring, or
(d) done business with a person in respect of whom unlawful industrial action was being carried on,
is not fair and reasonable cause for the purpose of subsection (2)(a).

> (4) Where a trade union charges, levies or prescribes different initiation fees, dues or assessments in respect of a person according to whether he applies or has applied for membership in the trade union before or after an application for certification by the trade union to represent him as bargaining agent, the fee, due or assessment shall be deemed to be discriminatory for the purpose of subsection (2)(b).

What are the steps which the Board can take under Section 8(4) of the Code when it finds that a violation of the law has occurred? The basic remedy under the statute is a cease and desist order under Section 8(4)(a) against illegal conduct by a trade union, an employer, or any other person. This power of the Board is supported by further remedies specifically tailored to certain problems. The one most often used in practice, because of the large number of discharge cases handled, is the Board's power under Section 8(4)(c) to order reinstatement and/or back pay for an employee discharged or otherwise disciplined contrary to Section 3(3)(a). Also useful is the remedy contained in Section 8(4)(d) of the Code under which the Board may forestall, for as long as 60 days, any employer attempts to influence employee freedom of choice by altering wages or other working conditions. A remedy of considerable value is Section 8(4)(e) which gives the Board discretion to certify or to refuse to certify an applicant trade union in circumstances where an unfair labour practice has made it difficult to determine the true wishes of the employees. Accompanying Section 5 of the Code is Section 8 (c.1) which was also enacted with the 1984 amendments. Section 8 (c.1) sets out remedies for those situations where the Board finds a violation of Section 5.

In 1984, the Board received 332 complaints of violations of these several provisions of the statute, 4% more than the num-

ber received in 1983. The Board disposed of 320 complaints; 213 were settled without adjudication, usually through the assistance of an Officer of the Board and two were withdrawn prior to any significant Board involvement. Of the remaining 105 complaints formally decided by the Board, 82 were rejected and 23 resulted in findings of unfair labour practices. Hearings were held for 98 applications and 82 of the 105 Board decisions were accompanied by published reasons.

Section 3

The source of the largest number of unfair labour practice charges is some type of employer activity designed to discourage employees from unionization. Of the 320 unfair labour practice cases disposed of by the Board in 1984, 141 alleged violations of Section 3 of the Code. One complaint was withdrawn prior to any significant Board involvement. Of the remaining 140 complaints, 80 alleged dismissals contrary to Section 3(3)(a), while another 60 complained of employer tactics short of actual discharge. Of these 60 complaints, 56 involved allegations of improper attempts to induce or compel abstention from union membership and four were based on alleged interference with trade union administration.

The most numerous and significant unfair labour practice complaint is that concerning discharge for union involvement, alleged in 80 of the 320 complaints. Almost all of these 80 complaints were brought by trade unions; only one application was filed by the individual affected. Settlements were reached with the assistance of the Board or one of its Officers in 60

cases. Twenty discharge cases required adjudication by the Board.

Eighteen of the 80 dismissal complaints were withdrawn by the unions involved and Board records do not indicate the fate of the dismissed employees. Of the remaining 62 dismissal complaints, including settlements and decisions, 52 culminated in some form of positive relief for at least some of the employees affected.

The Board's power under Section 8(4)(c) to order reinstatement and/or back pay was the basis of 10 Board decisions involving 39 employees. Thirty-five of these employees were reinstated with back pay. Two received compensation without reinstatement. For two employees, the Board ruled a violation had occurred and left it to the parties to attempt to arrive at a remedy, while retaining jurisdiction to resolve the matter if the parties could not.

Twenty-one complaints requested certification under Section 8(4)(e) in conjunction with a complaint under Section 3. In three cases, the request was granted. We note that in ten of the remaining cases, the union did secure certification under either Section 45 (prior to June 8, 1984) or Section 43 (from June 8, 1984 on) of the Labour Code.

Section 4(1) and (2)

Three complaints were filed by employers alleging that unions had been organizing on the employers' properties during

working hours. One case was settled and the Board dismissed the other two applications.

Section 4(3)

Recent amendments to the Labour Code, effective June 8, 1984, included the addition of Section 4(3) which prohibits any actions by a union which could have the effect of influencing a person in deciding whether to be or to cease being a union member. This conduct was previously prohibited by Section 5 of the Labour Code. In 1984, the Board disposed of 4 applications alleging violations of this section. Two cases were settled and the Board dismissed the other two applications.

Section 5 (Prior To June 8, 1984)

In 1984, prior to June 8, the Board dealt with six complaints under Section 5 of the Labour Code. Four complaints were filed by an employer against a union. Two cases were settled and the other two cases were dismissed. One complaint was filed by a union against an employer and was dismissed. One complaint filed by a union against a council of unions was settled.

Section 5 (As Enacted On June 8, 1984)

On June 8, 1984, Section 5 of the Labour Code was repealed and legislation governing conditions of union membership was substituted. The Board has dealt with three applications under this new provision, two filed by rival unions and one filed by an employer. Two cases were settled and one application was dismissed.

Section 6

There were 37 complaints disposed of alleging a refusal to bargain in good faith as required by Section 6 of the Code. One complaint was withdrawn prior to any significant Board involvement. Of the remaining 36, 33 were filed by unions and three by employers.

Of the 36 charges of failure to bargain in good faith, 27 were voluntarily resolved. Seven of these complaints were rejected by the Board. In two cases, a violation was deemed to have occurred.

Section 7

In 1984, the Board disposed of 125 complaints by individual employees alleging a violation by their union bargaining agent of the duty of fair representation contained in Section 7 of

the Code. Seventy of these complaints were voluntarily resolved through the efforts of an officer or a member of the Board. Fifty-two complaints were rejected by the Board. In three cases, a violation was deemed to have occurred. In two of these cases, the union was ordered to proceed to arbitration. In the third case, the complaint was resolved through a consent order signed by the complainant, the union and the employer.

The Board also dealt with one complaint pursuant to Section 7 filed by a union against a bargaining council. This complaint was settled.

Section 70

Although not located in the unfair labour practice part of the Code, the controversial power of "first contract arbitration" conferred on the Board by Section 70 may usefully be reviewed here. As a practical matter, this power is designed as a remedy for those cases where there were difficulties between the parties at the representation stage and they have not been able to engage in serious, good faith bargaining following certification.

Following referral of the dispute by the Minister of Labour, the Board has the power to settle the terms of the collective agreement for a period of one year. The Board has imposed 12 contracts since Section 70 was introduced. However, it should be noted that the Board does not automatically impose a first collective agreement on the parties, even where a persuasive application is made. Instead, it makes a determined

effort to secure a voluntary settlement of the agreement. The objective of Section 70 is to foster an enduring collective bargaining relationship. In the Board's view, a solution agreed to by both parties is a much better foundation for such a relationship than an order imposed by the Board.

In 1984, there were no applications under Section 70 referred to the Board by the Minister.

D. Applying the Code to the Bargaining Relationship

Once the issue of union representation is disposed of, the Board is required to apply the provisions of the Labour Code to a large number of issues which may arise in a collective bargaining relationship.

Sections 51 and 61

Section 51 of the Code requires the consent of the Board to changes in working conditions while a certification application is pending.

> 51.(1) Where an application for certification is pending, a trade union or person affected by the application shall not declare or engage in a strike, an employer shall not declare a lockout, and an employer shall not increase or decrease rates of pay, or alter a term or condition of employment of the employees affected

> by the application, without the board's written permission.
>
> (2) This section shall not be construed as affecting the right of an employer to suspend, transfer, lay off, discharge or discipline an employee for proper cause.

Section 61 imposes the same requirement for four months following certification or until a collective agreement is executed, whichever occurs first. The Board's policy under these Sections is to enquire from the trade union whether it objects to the proposed alteration. Ordinarily, the union does not object and the application is granted. In those cases where the union does object with reasons, the Board usually withholds permission. This report year saw 14 applications disposed of under these Sections. Of the 14 applications, five were withdrawn, 8 were granted and one was rejected.

Section 34

Another question which may arise during a certification application is whether certain individuals are "employees" under the Code and, if so, whether they are properly included in a bargaining unit. The policy of the Board is not to proceed with such questions until after the certification is completed, except in those rare cases where the status of certain individuals in question may affect whether 45% of the employees in the unit are members in good standing of the trade union. Following certification, either the trade union or the employer may apply to the Board under Section 34 for a determination of the position of the person under the Code and the bargaining unit. Such questions also arise during the course

of the collective bargaining relationship when new persons are hired or job functions are changed. In 1984, a total of 113 applications under Section 34 involving this issue were disposed of by the Board. The practice of the Board is to have an Industrial Relations Officer investigate the factual nature of the individual's position and make a report. An additional 27 applications referred to other questions under Section 34 of the Code.

Once collective bargaining has been established, material changes in circumstances can require a decision of the Board adjusting the certification to the new situation. Most of these take the form of an application to the Board under Section 36 for a variance of a certification or accreditation. A number of cases involve applications under Sections 53 and 54, the successorship provisions of the Code, and under Section 37, the "common employer" provision.

Variance of Certification

In 1984, the Board received 412 applications for certification variance, an increase of 2% from the 1983 figure. Most of these applications involve a simple change in the name or address of the employer or the trade union, and are simply processed. In a few cases, however, the requested variance would have the effect of increasing or decreasing the number of employees in the existing bargaining unit, and these are often contested. The policy of the Board in these cases is to exercise its discretion under Section 36 in accordance with the principles established by the Code for certification or decer-

tification proceedings, and particularly to investigate the wishes of the group of employees concerned.

Successor Status

Quite frequently, there is a fundamental change in the identity of a party to the certification. This often occurs when a business is sold. Section 53(1) provides for the automatic transfer of the certification and the collective agreement.

> 53.(1) Where a business or part of it or a substantial part of its entire assets are sold, leased, transferred or otherwise disposed of, the purchaser, lessee or transferee is bound by all proceedings under this Act before the date of the disposition, and the proceedings shall continue as if no change had occurred; and where a collective agreement is in force, it continues to bind the purchaser, lessee or transferee to the same extent as if it had been signed by him.
>
> (2) Where a question arises under this section, the board, on application by any person, shall determine what rights, privileges and duties have been acquired or are retained, and for this purpose the board may make inquiries or direct that representation votes be taken as it considers necessary or advisable.
>
> (3) The board, having made an inquiry or directed a vote pursuant to this section, may
>
> (a) determine whether the employees constitute one or more units appropriate for collective bargaining;
>
> (b) determine which trade union shall be bargaining agent for the employees in each unit;
>
> (c) amend, to the extent it considers necessary or advisable, a certificate issued to a trade union or the description

> of a unit contained in a collective agreement;
> (d) modify or restrict the operation or effect of a provision of a collective agreement in order to define the seniority rights under it of employees affected by the sale, lease, transfer or other disposition; and
> (e) give directions the board considers necessary or advisable, as to the interpretation and application of a collective agreement affecting the employees in a unit determined under this section to be appropriate for collective bargaining.

In cases where the application of Section 53 is questionable, particularly where there may be an overlapping of bargaining rights, the parties may apply to the Board under Section 53(2) for a clarification of the issues. Section 53(3) gives the Board a range of remedies to deal with such cases. The Board received 249 applications under Section 53 and 177 applications under Section 54 (which deals with one union applying to succeed another) during 1984, a decrease from the 435 received under both Sections in 1983.

Section 37

Sometimes, a change in the identity of an employer results from the fact that a single management group operates through two or more legally distinct business enterprises, usually companies or partnerships. When such corporate interrelationships threaten existing or impending rights or obligations under the Code, the Board may act under Section 37 to treat all of the enterprises as one employer for the purposes of the Code.

> 37. Where, in the board's opinion, associated or related activities or businesses are carried on by or through more than one corporation, individual, firm, syndicate or association, or a combination of them, under common control or direction, the board may treat them as constituting one employer for the purposes of this Act.

In 1984, the Board disposed of 94 applications under this Section, 65 of them involving enterprises in the construction industry. Fifty-eight of the 94 applications were settled or withdrawn. This was in part due to the procedures developed by the Board to expedite the applications arising in the construction industry and to promote the voluntary settlement of these cases. Of the remaining 36, the Board granted 15 with respect to at least some of the enterprises named in the application. The balance were rejected.

E. Administration of the Collective Agreement

Under Part 6 of the Labour Code, the preferred vehicle for resolution of disputes under a collective agreement is grievance arbitration. But under the statute, the Board does have a significant role to play in the administration of the collective agreement. In this part of the report, we deal with two major areas of Board involvement in this process.

Section 96

Section 96(1) gives the Board a comprehensive original jurisdiction in resolving grievances arising under the provisions of a collective agreement.

> 96.(1) Notwithstanding the provision required or prescribed under section 93 or 94,
> (a) if at any time prior to the appointment of an arbitration board or other body, either party to the collective agreement requests the board in writing to appoint an officer to confer with the parties to assist them to settle the difference, and the request is accompanied by a statement of the difference to be settled, the board may
> (i) appoint that officer; or
> (ii) proceed as provided in paragraph (c);
> (b) where an officer is appointed under paragraph (a), the officer shall, after conferring with the parties, report to the board;
> (c) where the board decides, under paragraph (a) (ii) to proceed under this paragraph, or the officer's report is made under paragraph (b), the board may, if it believes the difference, when referred to the board, is arbitrable,
> (i) refer the difference back to the parties; or
> (ii) inquire into the difference, and after the inquiry it considers adequate, make an order for final and conclusive settlement of the difference;
> (d) where the board refers the difference back to the parties under paragraph (c)(i), the parties shall follow the procedure in the provision required or prescribed under section 93 for final and conclusive settlement of the difference;
> (e) where the board
> (i) inquires into the difference under paragraph (c)(ii); or
> (ii) advises the parties that in its opinion the difference is not arbi-

> trable, neither the Arbitration Act nor any other procedure for settlement of the difference applies; and
> (f) where the board inquires into the difference under paragraph (c)(ii), it may exercise all the powers of an arbitration board under this Part, and its order for final and conclusive settlement of the difference is final and binding on the parties and on all other persons bound by the collective agreement, and all those parties and persons shall comply with the order.

This procedure has been used both by trade unions and employers since it was first introduced into British Columbia law in 1963 in the form of Section 22(4) of the old Labour Relations Act *. In this report year, the number of applications filed with the Board increased from 628 in 1983 to 641 in 1984.

Under Section 96(1), a party to a collective agreement may request the Board to appoint an officer to assist in the settlement of a difference arising during the term of a collective agreement. The Board is not required to appoint an officer simply because a party to an agreement has made such a request. But its practice has been to make an appointment if the difference between the parties appears to be arbitrable under the agreement and if all the steps in the grievance procedure prior to arbitration have been exhausted. This is

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* It should be noted that the availability of Section 96(1) as an alternative to arbitration is not mandated by law. Section 96(2) of the Code allows the parties, by specific agreement, to exclude the Board from any role in resolving grievances under their collective agreement.

because the Board considers that the primary purpose of Section 96 is to offer the parties help and advice in resolving their differences without the expense and delay of an arbitration hearing.

In the first nine report years, officer mediation under Section 96 of the differences arising under a collective agreement achieved a settlement of approximately two-thirds of the applications made to the Board. In 1983, the proportion settled was 66% of the total applications disposed of and in 1984, this proportion increased to 67%.

The Board disposed of 596 applications under Section 96(1) in the report year. Of these, a total of 399 were voluntarily settled, almost all through the efforts of an officer. This very substantial rate of officer settlement is of major benefit to the labour relations community in British Columbia in two respects. The parties reach a voluntary accommodation of their differences under their own contract rather than having a binding decision imposed by an outside legal authority. In the process, a potentially serious overloading of the arbitration procedure is avoided.

If the officer appointed by the Board does not achieve a voluntary settlement of an arbitrable difference, the Board may either refer the difference back to the parties or inquire into the difference itself and make an order for final and conclusive settlement of the difference. In exercising its discretion about how to proceed in respect of unsettled Section 96 applications, the Board takes account of such factors as the nature and significance of the particular grievance, the character of the bargaining relationship between the parties and the relative capability of Board procedure to achieve a satisfactory disposition of the dispute.

In a considerable number of cases, the Board exercises its powers under Section 96(1)(c)(ii) to make a binding decision on the basis of the officer's report and submissions from the parties. Generally speaking, these involve minor grievances which the Board anticipates would not go to arbitration or which would place a disproportionate burden on a party required to go to arbitration for a decision. The parties require an authoritative judgment on the merits of their case and a reasonable appraisal of these merits can be made on the basis of investigation and written submissions. Typical examples of such grievances are trade union claims against an insolvent employer for unpaid wages or fringe benefits, or for failure to deduct and remit union dues; differences about minor discipline; and disputes as to the proper interpretation of specific contract language. The Board was able to dispose of 46 applications under Section 96(1) by administrative decision in the report year.

Each year, there is a sizeable number of grievances which an officer is not able to settle under Section 96 and where his report indicates that the matter is of considerable significance to the parties under the collective agreement and thus should receive the full consideration of an oral hearing. The Board's normal practice under Section 96(1)(c) is to refer these matters back to the parties for an arbitration hearing. This policy embodies the statutory principle that adjudication of key disputes under the agreement should be conducted in an environment which is under the control of the same parties who have negotiated the agreement. As well, the policy reflects the need for the proper allocation of the Board's own scarce hearing time amongst the approximately five thousand cases which come before it each year. This policy is applied in such typical cases as these: unresolved disputes about the discharge of an employee where the facts are in dispute;

unresolved seniority grievances in connection with a layoff or promotion where the relative qualifications of the affected employees are at issue; cases involving major issues of contract interpretation which may be of significant value as a future precedent and require reference to extrinsic evidence and argument about the relevant arbitral jurisprudence; situations where the parties have developed their own specialized dispute resolution procedures, such as jurisdictional disputes in the construction industry, or specialized job evaluation programs. In 1984, the Board referred 141 such cases back to the parties for arbitration under their collective agreement.

There is one important exception to the Board's policy that grievances which require a formal hearing should be held under the arbitration procedure established under the collective agreement. Where the difference between the parties raises an issue of general importance within the statutory responsibilities of the Board, the matter will normally be set down for a hearing in front of a Panel of the Board which will then proceed to adjudicate the grievance and prepare formal reasons for its decision. The following are examples of cases in which the Board has exercised its discretion under Section 96(1)(c) to adjudicate the grievance itself: grievances about an issue, for example a discharge or work assignment, which has led to a wildcat strike or other form of industrial unrest; grievances which are tied to unfair labour practices, for example the alleged discharge of an employee because of union activities or the alleged breach by a union of its duty of fair representation to the grievor; grievances in which the primary issue in dispute is the proper application of key statutory concepts, for example "employee", "dependent contractor", "collective agreement"; grievances involving major issues of law and policy relating to the collective agreement and its proper interpretation, for example the proper scope of disciplinary demotion.

In 1984, formal hearings by the Board resulted in the issuance of five orders under Section 96(1)(c)(ii).

In summary, the Board disposed of 596 applications under Section 96(1) in the report year. Of these, a total of 399 were voluntarily settled, almost all through the efforts of an officer but, on a number of occasions, through the intervention of a Panel of the Board. Two of the applications were withdrawn, three were determined to be non-arbitrable and 141 were referred back to the parties. The remaining 51 were adjudicated by the Board. Forty-six of the latter turned on issues which could be disposed of on the basis of the officer's report and written submissions from the parties.

Tables 10 to 12 state in detail the results in applications brought under Section 96. Table 10 sets out the nature of the disposition and indicates which party was the beneficiary. Table 11 gives a breakdown of the cases by reference to the type of problem in dispute. Table 12 gives the industrial composition of the cases and the number of applications brought by unions and employers in each industry.

Over the last ten report years, the relative proportions in the origin of applications under Section 96(1) have fluctuated only slightly with 91% to 96% of the applications coming from unions and 4% to 9% coming from employers. In 1984, 579 of the 596 applications disposed of came from unions (97%) and 14 (2%) came from employers. Two applications were filed jointly by a union and an employer and one application was filed by an accredited employers' organization.

An analysis of the 641 applications received by the Board in 1984 (see Table 16, column 4) reveals that four unions filed over 30 applications. The Hotel & Restaurant Employees' &

Bartenders' Union filed 165 applications (26% of the total); the United Brotherhood of Carpenters and Joiners of America filed 59 applications (9% of the total); the International Union of Operating Engineers filed 53 applications (8% of the total); the Teamsters filed 36 applications (6% of the total). While these are large unions, it is observed that each union has a considerable number of relatively small bargaining units, each with its own (and often unique) collective agreement.

Of the 382 employers who were respondents to union complaints disposed of by the Board in 1984 (see Table 12), a total of 344 employers (or 90%) responded to either one or two complaints. Indeed, only two employers were the respondents to more than ten applications. Turning to the 14 cases disposed of in 1984 in which the employer filed the application, there is the same wide distribution amongst the parties involved. None of the 12 employers who filed Section 96(1) applications brought more than two applications.

The Board continues to conclude, on the basis of these findings of the wide distribution in the use of Section 96(1) either by unions, employers, or industry, that there is no specific abuse of the procedure.

In early 1976, the Board issued its first official policy statement under Section 27 of the Code.

> 27.(2) The board may formulate general guidelines to further the operation of this Act; but the board is not bound by those guidelines in the exercise of its powers or the performance of its duties.
>
> (3) In formulating general guidelines the board may request that submissions be made to it by any person.
>
> (4) The board shall make available in writing for publication all general guidelines

> formulated under this section, and their amendments and revisions.

That statement (BCLRB No. 12/76, [1976] 2 Can LRBR 17) examines the powers of the Board under Section 96 and attempts to formulate general guidelines for the exercise of the Board's discretion. In addition, the policy statement sets out in detail the Board's views of the purpose of the Section 96 procedure and how, within the larger framework of the Code, the use of that procedure may promote the constructive settlement of grievances and thus secure and maintain industrial peace during the term of the collective agreement.

Section 108

The Board has another major role to play in the administration of the collective agreement under Part 6 of the Labour Code. Section 108 of the Code, enacted in mid-1975, gives the Board authority to review arbitration awards delivered under collective agreements.

> 108.(1) On application by a party affected by the decision or award of an arbitration board, the board may set aside the award, remit the matters referred back to the arbitration board, stay the proceedings before the arbitration board, or substitute the decision or award of the board for the decision or award of the arbitration board, on the ground that
>
> (a) a party to the arbitration has been or is likely to be denied a fair hearing; or
>
> (b) that the decision or award of the arbitration board is inconsistent with the principles expressed or implied in this Act, or another Act dealing with labour relations.

> (2) An application to the board under subsection (1) must be made in accordance with the regulations.

The Board has issued a number of major decisions outlining the view that it takes of Part 6 of the Labour Code as a whole, in terms of the scope of the Board's supervision of arbitrators contemplated by the Code.

In its first major decision under this provision, Simon Fraser University, BCLRB No. 16/76, [1976] 2 Can LRBR 54, the Board indicated clearly that Section 108 does not afford the losing party in an arbitration proceeding a full-blown right of appeal to the Board on the merits of the arbitrator's decision. The Board carefully limits its enquiry to whether the party has been denied a "fair hearing" (as found, for example, in Board of School Trustees of School District No. 68 (Nanaimo), BCLRB No. 68/76, [1977] 1 Can LRBR 39) or whether the award is inconsistent with the principles expressed or implied in the Code or any other legislation dealing with labour relations (as found, for example, in University of British Columbia, BCLRB No. 42/76, [1977] 1 Can LRBR 13). Within those standards formulated in Section 108, the Board will not overturn an arbitration award on the basis of alleged mistakes in findings of fact or interpretation of contract terms.

In the report year, the Board received 75 applications under Section 108 and disposed of 61 such applications. Of the 61, a total of 32 were brought by employers, 23 by unions, five by the grievors involved and one by an accredited employers' association. Eight dealt with arbitration awards regarding discharge grievances. Of the 61 applications disposed of by the Board in 1984, ten were withdrawn and 44 were dismissed.

The element of limited interference in grievance arbitration was reflected in the fact that in only seven

applications was the decision of the arbitrator set aside. In four cases, the grievances were referred back to the arbitrator; in three cases, the parties were directed to set up a new arbitration board to hear the grievance afresh.

Of the 51 applications decided by the Board, 16 were reviewed in a formal hearing and 42 were accompanied by reasons in a published Board decision.

F. Strikes, Lockouts and Picketing

The Board, charged with the primary responsibility for administering the law relating to strikes, lockouts and picketing in British Columbia, received 214 applications under Part 5 of the Labour Code in 1984 and disposed of 211 in the report year. The 211 cases dealt with by the Board included 71 concerning alleged illegal strike action, 9 concerning alleged illegal lockouts and 131 concerning only some form of picketing activity.

In exercising its jurisdiction in this regard, the Board balances attempts at speedy decision-making and its effort to deal effectively with the underlying factors which have produced the illegal work stoppage or picketing. Officers of the Ministry of Labour, as well as the Board's own staff and members are used by the Board in an attempt to achieve a satisfactory and mutually acceptable disposition of each dispute without the need for a formal hearing or adjudication. In 1984, this procedure led to a settlement of 116 applications (55%, considerably lower than the 69% in 1983), including 40 of the 71 strike applications, 5 of the 9 lockout applications,

and 71 of the 131 applications in the picketing area. Eleven of these applications reached a formal hearing before an accommodation could be reached by the parties.

Where such voluntary disposition of an application is not achieved, a Panel is convened, evidence and argument is heard and a formal decision is made. In 1984, 95 applications led to formal adjudication by the Board, 63 resulted in Board orders and 32 were dismissed.

Strikes and Lockouts

A fundamental principle of the Labour Code is that the legality of a strike depends upon its timing. The use of this economic weapon is prohibited through much of the life of the collective bargaining relationship. In particular, Section 93 requires that all disputes arising under a collective agreement are to be resolved, without stoppage of work, either by arbitration or other techniques devised by the parties. Section 79(1) complements that requirement by prohibiting strikes during the life of a collective agreement. During the 1984 report year, the Board disposed of 71 applications in this area. Forty of these were settled and the Board adjudicated the remaining 31.

Of these 31 applications, 9 applications adjudicated alleged threatened or actual job action arising from the public sector dispute which took place in the first two weeks of November 1983. In all of the applications, the application was granted wholly or in part.

Of the remaining 22 applications, 10 alleged threatened or actual illegal job action during the term of a collective agreement contrary to Section 79(1). In the 10 cases, actual or threatened work stoppages, work slowdowns or refusals to perform specific duties were generated by real or felt grievances on the part of the employees concerning the manner in which the contract was being administered or by clauses in the contract allegedly allowing such job action. In 9 of the 10 cases, the Board ruled a violation had occurred or would occur. The Board rejected the application in one case because the applicant did not have standing to bring the complaint.

The legality of a strike is subject to certain preconditions under the Code. The parties must have bargained collectively, in good faith, with respect to the dispute and must have failed to conclude a collective agreement. The trade union must conduct a strike vote by secret ballot among the employees in the unit affected and must give 72 hours written notice (or such longer period as may be directed by the Board under Section 81(4) of the Code) to the employer that a strike is to occur. If a mediation officer has been appointed in the dispute, the strike must be postponed until the officer has reported to the Minister and the union has been so advised. Only after each of these conditions has been satisfied does a strike become timely and legal. Five of the 31 strike applications adjudicated by the Board in 1984 alleged a violation of one or another of these requirements. The Board ruled a violation had occurred in three of these cases and dismissed the other two.

Three cases requested relief under Section 90 of the Code from certain declarations. The Board granted the relief requested in two cases and denied the relief in the third case.

One application was filed by unions requesting a declaration that certain job action would not constitute an illegal strike. This applicaton was denied by the Board.

The remaining three of the 31 applications alleged that certain job action contravened the requirements of the Pulp and Paper Collective Bargaining Assistance Act, the Metro Transit Collective Bargaining Assistance Act or the Essential Services Disputes Act. For all 3 applications the Board ruled a violation had or would occur.

The provisions of the Code with respect to the legality of employer lockouts mirror those which define the legality of employee strikes. During the 1984 report year, the Board disposed of 9 complaints alleging illegal lockouts. Five of the 9 were settled without formal Board adjudication. In one case, the Board ruled a violation had occurred. The Board dismissed the remaining three cases.

Picketing

When parties to a collective bargaining relationship reach an impasse in negotiating the terms of their collective agreement, either side may, subject to the legal restrictions already noted, use the economic sanction of a work stoppage to enforce its demands. The employer is legally entitled to attempt to continue operations by replacing the strikers so long as he does not use professional strike breakers. The union, on the other hand, is entitled to attempt to stop the employer's efforts to maintain his operations. The primary measure recognized by the law for that purpose is peaceful pic-

keting within the limits permitted by the Labour Code. In the 1984 report year, the Board disposed of 131 applications pertaining to picketing. Seventy-one of these were settled and the Board adjudicated the remaining 60.

Picketing is legal only when it is carried on in connection with a lockout or a lawful strike. Therefore, picketing designed to force an employer to recognize the picketing union is prohibited by the Code. Of the 60 applications adjudicated by the Board concerning picketing, four alleged that the picketing was organizational in purpose and therefore outside the scope of permitted picketing under the Code. In all 4 cases, the Board found the picketing should be prohibited.

Another principle of the Code is that the legitimate target of picketing is the struck employer and not an uninvolved third party. The one apparent exception in the Code, the "ally doctrine" actually seems to prove the rule. By involving itself in a bargaining dispute on the side of the struck employer against the striking union members, the ally forfeits its neutral status and exposes itself to picketing at its place of business, operations or employment. Four applications adjudicated in 1984 dealt with anticipated picketing directed at secondary employers which the unions alleged had allied themselves with employers involved in industrial disputes. These applications were filed by unions requesting declarations regarding the "ally" status of these employers. The Board granted three of these applications on the grounds the employers were allies and denied the fourth application. Another two applications were received from employers for relief from picketing, occurring because the unions alleged the employers were allies. The Board ruled the picketing was unlawful for one of the applications. Although the second was rejected, the Board imposed certain conditions whereby the employer could be extricated from its ally status.

Where several employers share a common site of operations, a picket line directed at one of these employers is not a discriminating instrument likely to affect only its intended target. Prior to the June 1984 amendments, the Code conferred on the Board a broad discretion to give precise directions confining the impact of picketing to the employer involved in the dispute and insulating third party employers from its damage. The Board disposed of 10 such applications by secondary employers in 1984 by restricting the scope of the picketing in 9 cases and refusing to exercise its discretion in the other case. Pursuant to the new amendments, the Code now directs the Board to reasonably restrict the picketing to the struck employer, or to the employer causing the lockout, or to an ally of the employer. The Board had not decided any cases under these new amendments by the end of the report year.

In addition to the above cases, the Board dealt with 35 cases involving pickets at actual or alleged secondary locations of employers involved in industrial disputes. In 15 cases, the Board granted the relief requested. In the remaining 20 cases (adjudicated prior to June 8, 1984), the picketing was held to be lawful and was not restricted.

Two picketing cases ruled on by the Board resulted from real or felt grievances in situations where a collective agreement was in effect between the parties involved. In one case the picketing was deemed unlawful; in the other case, a consent order was issued to resolve the dispute.

Two picketing cases resulted from alleged unfair labour practices on the part of the employer. In both cases, the Board ruled the picketing was unlawful.

In one case, the employer asked for relief from picketing during a legal lockout. This request was denied by the Board.

VIII. STATISTICAL APPENDIX

A. Introduction

The following tables provide an analysis of the applications filed with and disposed of by the Labour Relations Board in 1983 and 1984.

In a few cases, multiple decisions resulted from one application. These were usually counted as single decisions. However, for two types of applications, where the volume of multiple decisions was higher, different methods were used. Board rulings regarding the status of employees under Section 34 were counted individually -- that is, one application requesting ten rulings was counted as ten decisions, while a withdrawal of such an application was counted as one. Applications to vary accreditations requested varying numbers and types of decisions. Each application was counted as one decision but a footnote indicates the number of employers who were affected by these applications.

An application involving a dispute is classified as withdrawn if the request for withdrawal comes prior to the involvement of an Officer or a Board panel. An application withdrawn following such involvement is classified as settled.

It is important to note when using these figures as a guide that the work content of individual applications varies widely, both among different categories of applications and among applications in the same category. The work content of the administrative, investigative and decision-making functions can vary widely as well, from category to category and from application to application.

B. 1983-84 Comparisons

Applications Filed

In 1984, 4696 applications were filed with the B.C. Labour Relations Board, a decrease of 6% from applications filed in 1983.

In 1984, the Board experienced an increase from 1983 in nine of the 19 categories shown in Table 1; applications to cancel an accreditation (100%), for the appointment of an arbitrator (65%), for decertification (58%), for a common employer declaration (18%), to review an arbitration award (17%), alleging unfair labour practices (4%), to vary a certification (2%), for the appointment of an officer to settle a grievance (2%) and for reconsideration of a Board decision (2%).

Applications filed decreased from 1983, also in nine categories; applications for accreditation (100%), for the appointment of a strike or lockout observer (59%), to alter the terms and/or conditions of employment (50%), for certification (39%), classified as miscellaneous (15%), to vary an accreditation (15%), regarding alleged illegal strikes, lockouts and picketing (9%), for an interpretation of the Labour Code as it applies to the collective bargaining relationship (5%), and for a successor status declaration (2%).

One category remained unchanged; applications for first contract arbitration.

Applications Disposed of

In 1984, 4700 applications were disposed of by the B.C. Labour Relations Board, a decrease of 6% from 1983.

In 1984, the Board experienced an increase from 1983, in six of the 19 categories shown in Table 2; applications for a successor status declaration (127%), for the appointment of an arbitrator (65%), for a common employer declaration (57%), for decertification (28%), for reconsideration of a Board decision (12%) and to cancel an accreditation (from 0 to 2).

Applications disposed of decreased from 1983 in twelve categories; applications for accreditation (100%), for the appointment of a strike or lockout observer (59%), for certification (45%), to alter the terms and/or conditions of employment (39%), to vary an accreditation (30%), to vary a certification (17%), for the appointment of an officer to settle a grievance (14%), classified as miscellaneous (14%), for an interpretation of the Labour Code as it applies to the collective bargaining relationship (12%), to review an arbitration award (8%), regarding alleged illegal strikes, lockouts and picketing (5%), and alleging unfair labour practices (4%).

One category remained unchanged; applications for first contract arbitration.

C. General Information

In addition to the figures shown in the following tables, in 1984, the Board, of its own motion, made 262 decisions.

Most of these were administrative and no employees were deprived of bargaining rights as a result of these decisions. Breaking down the 262 decisions, 162 were to vary certifications, 53 were to cancel or override certifications, 38 were to vary accreditations, and the remaining 9 were decisions made under various other Sections of the Code.

Votes

For applications disposed of in 1984, 234 votes were conducted.

One hundred and forty-seven of the votes involved applications for certification; 145 of these involved only one application for certification, one involved two applications and one involved a certification application and a successor status application.

The 147 votes involved 148 certification applications. One hundred and twenty-nine of these applications, involving 2206 eligible voters, were filed under Section 39(1) or under 39(2) where the application was unopposed or was an attempt to fragment an existing unit. Of these, 98 (or 76%) produced a certification. Of the 23 contested applications under Section 39(2), the Board ordered votes for 19 applications, involving 1675 eligible voters, and the applicant won 14 (or 74%) of them (See Table 9).

Eight votes involved variance of certification applications. Two of these sought to delete a portion of the presently certified bargining unit and the other six to expand the unit.

Seventy-two votes (ordered under Section 52) involved decertifications. In 65 cases, the union was decertified. The total number of employees eligible to vote for or against decertification was 1080.

Two votes involved only successorship applications (One vote, included above, involved a successorship application and an application for certification).

Two votes involved appeals of successorship decisions and one vote each, appeals of decisions regarding a certification, the variance of a certification and a decertification.

Hearings

Records indicate there were 499 formal hearings held in 1984. These hearings dealt with a varying number and type of application and were conducted over a varying number of days. The 499 formal hearings included 128 expedited hearings for certification applications.

Numerous informal meetings between the parties to a dispute and various employees of the Board were held during the year. In the majority of cases, it was not necessary for the Board to proceed with a formal hearing following those meetings.

Certifications

Tables 7, 8 and 9 outline the results of the certification applications which were disposed of by the Board in 1984. Applying the criteria outlined in Table 8, in 1984 the percentage of successful applications to certify unorganized employees was 86.5%.

In 1984, three certifications were granted under Section 8(4)(e). None were granted under Section 43(3).

There were 18 applications in 1984 to vary certifications so as to expand the bargaining unit; 13 of these were granted adding 271 employees to existing certifications. There were six votes held to decide these applications.

There were 129 applications to cancel certifications dealt with by the Board. Seventy-two were decided with a vote of the employees involved. For 65 of these applications, the employees voted to cancel the certification. Thirty-one applications were cancelled without a vote. The Board rejected 18 of the applications (in seven of these cases, the employees voted in favour of the union), and 15 were withdrawn. The Board of its own motion cancelled or overrode 53 certifications for administrative reasons. None of these resulted in a loss of bargaining rights for the employees involved.

In addition to the above, five certifications were cancelled following appeals.

There were 544 applications regarding successor status. While the vast majority of these asked for a declaration of successor rights a few dealt with such other issues as

seniority rights or collective agreement status. For 313 of the 544 applications, one union would be succeeding another; 312 of these were granted and one was rejected. For the remaining 231, one employer would be succeeding another; 156 of these were granted, 27 were rejected and 48 were withdrawn.

D. Miscellaneous

Table 2 indicates 172 miscellaneous decisions disposed of by the Board in 1984. These include the following.

There were 99 applications under Section 28 (excluding applications pertaining to Part 5 of the Code). These included 39 applications alleging that the terms and conditions of employment had been altered in violation of the Code, 41 applications alleging failure to execute or comply with a collective agreement and five alleging improper conduct in the negotiation of a collective agreement under Section 63 of the Code. The balance alleged violations of various other Sections of the Code.

Fifteen applications for religious exemption were disposed of. Thirteen of these were granted by the Board and two were dismissed.

The Board disposed of 25 applications where one of the parties felt there had been an undue delay in negotiating a disputed issue. Twenty of these were settled without a Board decision. In one case, the parties were ordered to take the dispute through the grievance procedure. In another case, the parties signed a consent order to resolve the difference. In the other three cases, the Board dismissed the applications.

Fifteen applications for a declaratory opinion (excluding applications pertaining to Part 5 of the Code) were disposed of by the Board. In two of these cases, an opinion was issued.

The remaining 18 applications referred to a variety of Sections of the legislation administered by the Board.

ACHIEVEMENT OF A FIRST CONTRACT FOLLOWING CERTIFICATION

In the past nine Annual Reports, data regarding the degree of success in achieving a first contract was outlined for certifications granted in the period January 1, 1974, to June 30, 1982.

This study has been continued for two more six-month periods -- July 1, 1982, to December 31, 1982, and January 1, 1983, to June 30, 1983.

As stated in the 1983 Report, data was again retrieved from three sources -- the collective agreement records of the Labour Relations Board and of the Ministry of Labour in Victoria, and a questionnaire sent to trade unions regarding the status of bargaining.

The criteria for measuring the time elapsing remain the same. To compute the time required to achieve a contract, the time from the date of certification to the date of the signing of the collective agreement was calculated. Where the signing date was not available, the date the agreement was received by the Labour Relations Board was used. In the few instances where neither date was available, it was assumed the contract

was signed within seven to twelve months following certification.

Again, the results must be qualified by the fact that 9% of the certifications (11% in the 1983 Annual Report) and 14% of the employees (10% in the 1983 Annual Report) were omitted from the study because contract data was not available.

The following is a summary of the results of this study since it began January 1, 1974. It should be noted that a large proportion (75% in the periods studied for this Report) of the units which obtain a contract prior to certification are small construction industry units.

Certifications Granted to Unorganized Employees in	Percentage Achieving a Contract Prior to Certification		Percentage Without a Contract 18 Months after Certification	
	Units	Employees	Units	Employees
the 1st half of 1974	51.5%	52.0%	9.0%	4.5%
the 2nd half of 1974	35.4%	10.1%	10.6%	6.5%
the 1st half of 1975	40.6%	36.0%	13.0%	10.6%
the 2nd half of 1975	57.9%	48.6%	11.2%	11.0%
the 1st half of 1976	54.1%	51.9%	10.1%	4.0%
the 2nd half of 1976	45.5%	29.7%	15.3%	11.5%
the 1st half of 1977	49.1%	29.4%	12.3%	19.9%
the 2nd half of 1977	49.2%	26.7%	19.5%	32.5%
the 1st half of 1978	43.1%	27.6%	10.6%	18.3%
the 2nd half of 1978	41.2%	17.5%	17.5%	33.6%*
the 1st half of 1979	43.8%	24.1%	14.8%	16.3%
the 2nd half of 1979	38.0%	17.4%	15.5%	25.3%
the 1st half of 1980	42.7%	18.8%	11.8%	6.4%
the 2nd half of 1980	42.8%	30.2%	10.0%	8.8%
the 1st half of 1981	45.3%	27.7%	12.8%	11.2%
the 2nd half of 1981	54.2%	38.7%	12.8%	11.3%
the 1st half of 1982	57.2%	37.1%	13.8%	17.5%
the 2nd half of 1982	65.9%	54.2%	12.7%	13.4%
the 1st half of 1983	66.3%	41.7%	14.4%	18.7%

* Another 22.1% of these employees had achieved a contract more than 18 months after certification but before the date of this report (as had a certain, but much smaller percentage, in the other time periods).

FIRST CONTRACT ANALYSIS

CERTIFICATIONS GRANTED TO UNORGANIZED EMPLOYEES

	2ND HALF 1982	1ST HALF 1983
Number of Certifications Granted:	293	200
Less Certifications Where No Contract Information Was Available:	26	19
Number of Certifications In Study:	267	181
Number of Employees Covered by Above Certifications:	2680	2049
Less Employees for Whom No Contract Information Was Available:	444	214
Number of Employees Studied:	2236	1835

PERIOD OF TIME TO ACHIEVE A FIRST CONTRACT

	2ND HALF 1982	1ST HALF 1983	2ND HALF 1982	1ST HALF 1983
Achieving a Contract	Number of Bargaining Units		Percentage of Bargaining Units	
Prior to Certification	176	120	65.9%	66.3%
Within 6 Months of Certification	199	134	74.5%	74.0%
Within 12 Months of Certification	229	151	85.7%	83.4%
Within 18 Months of Certification	233	155	87.3%	85.6%
Balance Remaining Without a First Contract, 18 Months After Certification	34	26	12.7%	14.4%

Achieving a Contract	Number of Employees		Percentage of Employees	
Prior to Certification	1212	766	54.2%	41.7%
Within 6 Months of Certification	1489	1194	66.6%	65.1%
Within 12 Months of Certification	1897	1426	84.8%	77.7%
Within 18 Months of Certification	1937	1491	86.6%	81.3%
Balance Remaining Without a First Contract, 18 Months After Certification	299	344	13.4%	18.7%

FIRST CONTRACT ANALYSIS (cont.)

DATA REGARDING THE STATUS OF NEGOTIATIONS, 18 MONTHS FOLLOWING CERTIFICATION, OF THE REMAINING BARGAINING UNITS AND EMPLOYEES, INDICATES THE FOLLOWING:

	Number of Bargaining Units		Number of Employees	
	2ND HALF 1982	1ST HALF 1983	2ND HALF 1982	1ST HALF 1983
Certification was cancelled	10	10	86	125
Contract was achieved after 18 months elapsed	2	2	7	16
Negotiations proceeding	5	1	69	26
Negotiations stalled	2	3	35	46
There are presently no employees in the bargaining unit	3	4	7	29
Employer temporarily closed down	5	0	25	0
Employer has gone out of business	2	5	12	76
Rejection of strike by vote	1	0	15	0
Employer hired non-union replacements	0	1	0	26
Employees no longer support union	2	0	21	0
Contract not yet achieved, no reason given	2	0	22	0

TABLE 1

APPLICATIONS AND COMPLAINTS FILED 1983-1984

TYPE OF APPLICATION	1983	1984
Certification		
Applications	540	329
Variances	404	412
Cancellations	107	169
Accreditation		
Applications	1	0
Variances	* 62	** 53
Cancellations	1	2
Declaration of Successor Status	435	426
Appointment of an Officer to resolve a dispute where a collective agreement is in effect	628	641
Complaints of unfair labour practices	319	332
To alter conditions of employment	24	12
For an interpretation of the Labour Code as it applies to the collective bargaining relationship	134	127
For a Board enquiry to settle the terms and conditions of a first collective agreement	0	0

cont.

TABLE 1 (cont.)

APPLICATIONS AND COMPLAINTS FILED 1983-1984

TYPE OF APPLICATION	1983	1984
For a Board order or opinion pertaining to alleged illegal strikes, lockouts and/or picketing	236	214
To treat several entities as one employer	72	85
For a review of an arbitration award	64	75
For the appointment of an observer of a strike or lockout poll	909	377
For the appointment of an arbitrator	647	1066
Miscellaneous	198	168
For reconsideration of a decision	204	208
TOTAL	4985	4696

* To add 77 employers, to delete 42 employers, and to vary the names and/or addresses of 31 employers and 2 associations.

** To add 28 employers, to delete 46 employers and to vary the names and/or addresses of 5 employers.

Note: For further elaboration of the figures in Table 1, refer to the Statistical Appendix.

TABLE 2

APPLICATIONS AND COMPLAINTS DISPOSED OF 1983-1984

TYPE OF APPLICATION	1983	1984
Certification		
Applications	678	376
Variances	416	347
Cancellations	101	129
Accreditation		
Applications	1	0
Variances	* 57	** 40
Cancellations	0	2
Declaration of Successor Status	240	544
Appointment of an Officer to resolve a dispute where a collective agreement is in effect	694	596
Complaints of unfair labour practices	333	320
To alter conditions of employment	23	14
For an interpretation of the Labour Code as it applies to the collective bargaining relationship	159	140
For a Board enquiry to settle the terms and conditions of a first collective agreement	0	0

cont.

TABLE 2 (cont.)

APPLICATIONS AND COMPLAINTS DISPOSED OF 1983-1984

TYPE OF APPLICATION	1983	1984
For a Board order or opinion pertaining to alleged illegal strikes, lockouts and/or picketing	223	211
To treat several entities as one employer	60	94
For a review of an arbitration award	66	61
For the appointment of an observer of a strike or lockout poll	909	377
For the appointment of an arbitrator	647	1066
Miscellaneous	199	172
For reconsideration of a decision	189	211
TOTAL	4995	4700

* 80 employers were added to accreditations, 21 were deleted (20 deletions were uncontested), and the names and/or addresses of 30 employers and 2 associations were varied. Requests to delete 7 employers were denied. Requests to add 1 employer and to delete 6 employers were withdrawn.

** 26 employers were added to accreditations, 17 were deleted and the names and/or addresses of 6 employers and one association were varied. Requests to delete 5 employers were denied. Requests to add 2 employers, to delete 4 employers and to vary the name of one employer were withdrawn.

Note: For further elaboration of the figures in Table 2, refer to the Statistical Appendix.

TABLE 3

APPLICATIONS AND COMPLAINTS DISPOSED OF THAT WERE DEALT WITH AT A FORMAL HEARING AND/OR WERE DEALT WITH IN A FORMAL BOARD DECISION 1983-1984

TYPE OF APPLICATION	NO./APPLICATIONS AT FORMAL HEARINGS		NO./APPLICATIONS IN FORMAL DECISIONS *	
	1983	1984	1983	1984
Certification				
Applications	25	141	78	64
Variances	17	20	34	17
Cancellations	13	13	39	21
Accreditation				
Applications	1	0	1	0
Variances	2	1	6	6
Cancellations	0	1	0	2
Declaration of Successor Status	26	41	41	** 221
Appointment of an Officer to resolve a dispute where a collective agreement is in effect	17	12	29	13
Complaints of unfair labour practices	102	98	100	82
To alter conditions of employment	1	1	3	2
For an interpretation of the Labour Code as it applies to the collective bargaining relationship	47	48	85	63

cont.

TABLE 3 (cont.)

APPLICATIONS AND COMPLAINTS DISPOSED OF THAT WERE DEALT WITH AT A FORMAL HEARING AND/OR WERE DEALT WITH IN A FORMAL BOARD DECISION 1983-1984

TYPE OF APPLICATION	NO./APPLICATIONS AT FORMAL HEARINGS		NO./APPLICATIONS IN FORMAL DECISIONS *	
	1983	1984	1983	1984
For a Board enquiry to settle the terms and conditions of a first collective agreement	0	0	0	0
For a Board order or opinion pertaining to alleged illegal strikes, lockouts and/or picketing	96	103	58	83
To treat several entities as one employer	32	43	29	26
For a review of an arbitration award	12	16	52	42
Miscellaneous	52	56	48	42
For reconsideration of a decision	56	74	149	141
TOTAL	499	668	* 752	** 825

* In 1983, the Board changed its procedures regarding published decisions. Letter decisions and formal decisions were consolidated into one series. Statistics for 1983 on reflect this consolidated series and cannot be compared with previous years where only formal decisions were considered.

** Includes 189 Section 54 applications by the Teamsters dealt with in one decision.

NOTE: The Board may deal with more than one application and/or complaint at one formal hearing. In 1984, the Board held 499 formal hearings.

TABLE 4

APPLICATIONS AND COMPLAINTS DISPOSED OF BY TYPE AND DISPOSITION 1983-1984

TYPE OF APPLICATION		1983	1984
Certification			
Applications:	Granted	441	238
	Rejected	122	66
	Withdrawn	115	72
Variances:	Granted	356	293
	Rejected	28	17
	Withdrawn	32	37
Cancellations:	Granted	63	96
	Rejected	27	18
	Withdrawn	11	15
Accreditation			
Applications:	Granted	1	0
	Rejected	0	0
	Withdrawn	0	0
Variances:	Granted	45	30
	Rejected	7	5
	Withdrawn	5	5
Cancellations:	Granted	0	2
	Rejected	0	0
	Withdrawn	0	0
Declaration of Successor Status			
	Granted	171	468
	Rejected	32	28
	Withdrawn	37	48

cont.

TABLE 4 (cont.)

APPLICATIONS AND COMPLAINTS DISPOSED OF BY TYPE AND DISPOSITION 1983-1984

TYPE OF APPLICATION	1983	1984
Appointment of an Officer to resolve a dispute where a collective agreement is in effect		
Settled	461	399
Board Arbitration	44	51
Referred Back to Parties	178	141
Not Arbitrable	5	3
Withdrawn	6	2
Complaints of Unfair Labour Practices		
Settled	211	213
Order Issued	26	23
Rejected	94	82
Withdrawn	2	2
To alter conditions of employment		
Granted	15	8
Rejected	3	1
Withdrawn	5	5
For an interpretation of the Labour Code as it applies to the collective bargaining relationship		
Ruling Made	123	110
Withdrawn	36	30

cont.

TABLE 4 (cont.)

APPLICATIONS AND COMPLAINTS DISPOSED
OF BY TYPE AND DISPOSITION 1983-1984

TYPE OF APPLICATION	1983	1984
For a Board enquiry to settle the terms and conditions of a first collective agreement		
Settled	0	0
Contract Imposed	0	0
Rejected	0	0
Withdrawn	0	0
For a Board order or opinion pertaining to alleged illegal strikes, lockouts and/or picketing		
Settled	153	116
Order or opinion Issued	50	63
Rejected	20	32
To treat several entities as one employer		
Granted	11	15
Rejected	28	21
Withdrawn	21	58
For review of an arbitration award		
Granted	7	7
Rejected	49	44
Withdrawn	10	10

cont.

TABLE 4 (cont.)

APPLICATIONS AND COMPLAINTS DISPOSED OF BY TYPE AND DISPOSITION 1983-1984

TYPE OF APPLICATION		1983	1984
For the appointment of an observer of a strike or lockout poll			
	Appointment Made	909	377
For the appointment of an arbitrator			
	Request Acknowledged	647	1066
Miscellaneous			
	Settled	120	88
	Granted	9	15
	Order or Opinion Issued	18	22
	Rejected	37	36
	Withdrawn	15	11
For reconsideration of a decision			
	Dismissed	129	143
	Varied	25	21
	Reversed	13	19
	Withdrawn	22	28
	TOTAL	4995	4700

NOTE: The category "Order or Opinion Issued" includes all Board rulings that a violation occurred or that a specific activity should be restricted. Formal orders were not necessarily issued.

The category "Rejected" includes decisions where the Board deems no violation of the Labour Code has occurred as well as decisions where the Board determines no further action is warranted.

TABLE 5

APPLICATIONS FOR CERTIFICATION FILED 1983-1984

INDUSTRY	NUMBER OF APPLICATIONS 1983	1984	NUMBER OF EMPLOYEES * 1983	1984
Manufacturing				
Food & Beverage	5	7	109	500
Wood Products	11	11	372	520
Metals (Refining & Fabrication)	16	9	70	77
Machinery, Transportation Equipment, Electrical Products	8	2	408	48
Miscellaneous	42	33	986	511
SUB-TOTAL	82	62	1945	1656
Construction	263	114	1371	708
Trade and Service				
Trade	45	28	939	270
Education & Health	18	21	899	522
Municipal	2	0	7	0
Miscellaneous	100	85	2602	2422
SUB-TOTAL	165	134	4447	3214
Other Industries				
Mining	7	2	1018	1381
Transportation	21	16	235	365
Communications & Other Utilities	2	1	6	19
SUB-TOTAL	30	19	1259	1765
TOTAL **	540	329	9022	7343

* The estimate of employees per application is derived from the estimate on the union application. Variances do occur between the time of application and the time of disposal of the application.

** Includes some multiple counting where more than one union applied to cover the same group of employees.

APPENDIX TO TABLE 5

NUMBER OF EMPLOYEES IN BARGAINING UNIT 1983-1984

Number of Employees Per Bargaining Unit Applied For	Number of Applications Filed 1983	1984
0 - 10	393	204
11 - 20	55	56
21 - 30	34	24
31 - 40	16	12
41 - 50	10	8
51 - 60	5	4
61 - 70	2	4
71 - 80	4	3
81 - 90	5	2
91 - 100	1	0
101 - 200	8	7
201 - 300	5	2
Over 300	2	3
Median Class of Employees Per Bargaining Unit Applied For:	0 - 10	0 - 10
Average Number of Employees Per Bargaining Unit Applied For:	17	22

TABLE 6

APPLICATIONS FOR CERTIFICATION GRANTED 1983-1984

INDUSTRY	NUMBER OF APPLICATIONS 1983	1984	NUMBER OF EMPLOYEES * 1983	1984
Manufacturing				
Food & Beverage	4	5	68	223
Wood Products	4	7	91	299
Metals (Refining & Fabrication)	12	7	54	26
Machinery, Transportation Equipment, Electrical Products	7	1	338	8
Miscellaneous	28	26	374	387
SUB-TOTAL	55	46	925	943
Construction	210	82	1027	417
Trade and Service				
Trade	39	19	874	151
Education & Health	16	12	632	355
Municipal	0	0	0	0
Miscellaneous	97	69	2173	1749
SUB-TOTAL	152	100	3679	2255
Other Industries				
Mining	4	1	328	340
Transportation	18	9	134	244
Communications & Other Utilities	2	0	6	0
SUB-TOTAL	24	10	468	584
TOTAL	441	238	6099	4199

* The estimate of employees per application is derived from the estimate on the union application. Variances do occur between the time of application and the time of disposal of the application.

TABLE 7

CERTIFICATIONS REJECTED IN 1984

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	NUMBER OF EMPLOYEES
A. Organized Employees		
1. Employees to be included in a larger unit already represented	0	0
2. Less than a majority were union members at the date of application	1	60
3. Applicant union rejected by employee vote	5	284
4. Application untimely	0	0
5. Bargaining unit inappropriate	5	67
6. Applicant does not meet the definition of a trade union	0	0
SUB-TOTAL	11	411
B. UNORGANIZED EMPLOYEES		
1. Bargaining unit not under the jurisdiction of the Board	2	61
2. Less than 2 employees in the bargaining unit	3	N/A
3. Employees to be included in a larger unit already represented	4	43
4. Employees to be included in a larger unit not yet (but subsequently) represented	0	0

cont.

TABLE 7 (cont.)

CERTIFICATIONS REJECTED IN 1984

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	NUMBER OF EMPLOYEES
5. Less than the legal membership requirement signed up by the union at the date of application	5	22
6. Employees voted for no union	30	773
7. Employees voted for certification of another union	1	30
8. Bargaining unit inappropriate	8	76
9. Applicant does not meet the definition of a trade union	2	187
SUB-TOTAL	55	1192
TOTAL	66	1603

cont.

TABLE 7 (cont.)

CERTIFICATIONS REJECTED IN 1984

C.	Number of Certification Applications Disposed of:	376
	Less: Applications Withdrawn	
	Applications to cover presently organized employees	
	Applications not under the jurisdiction of the Board	
	Applications for an inappropriate Bargaining unit	
	Applications where employees are or will be represented through another certification	
	NET	259
D.	Certification Applications for Unorganized Employees Rejected Because of:	
	Failure to meet membership requirements, or	
	An employee vote against the union	35
	D as a percentage of C:	13.5%

TABLE 8

CERTIFICATION APPLICATIONS DECIDED BY THE BOARD IN 1984

APPLICATIONS	GRANTED	REJECTED	TOTAL
Unorganized Employees	224	55	279 *
Organized Employees	14	11	25
TOTAL	238	66	304

* Deleting the 20 applications for unorganized employees which were rejected because they did not come under the jurisdiction of the Board, because the employees involved were represented through another certification, because the bargaining unit was inappropriate or because the applicant did not meet the definition of a trade union, the percentage of successful applications to certify unorganized employees can be expressed as 224 out of 259 or 86.5%.

NUMBER OF EMPLOYEES	GRANTED	REJECTED	TOTAL
Unorganized Employees	2762	1192	3954
Organized Employees	1437	411	1848
TOTAL	4199	1603	5802

ATTEMPTS BY ANOTHER UNION TO REPLACE AN INCUMBENT UNION	SUCCESSFUL	UNSUCCESSFUL	TOTAL
Number of attempts	14	9	23
Number of Employees Involved *	1437	361	1798

* The balance of the organized employees were involved in unopposed representation changes or attempts to enlarge or fragment existing bargaining units.

TABLE 9

CERTIFICATION APPLICATIONS RESULTING IN A VOTE IN 1984

A.	Number of applications pertaining to unorganized employees or to organized employees where the representation change was unopposed or was an attempt to fragment or enlarge a unit, which resulted in a vote	129 out of 281* or 46%
	Number of successful applications	98
	Number of unsuccessful applications	31
	Percentage of successful applications	76%
	Total number of eligible voters involved in the 129 applications **	2206
B.	Number of applications involving attempts by another union to replace an incumbent union, which resulted in a vote	19 out of 23 or 83%
	Number of successful applications	14
	Number of unsuccessful applications	5
	Percentage of successful applications	74%
	Total number of eligible voters involved in the 19 applications **	1675

* A total of 304 new certification applications were decided upon by the Board in the report year 1984. Of these, 23 applications involved attempts by a union to win the right to represent an entire bargaining unit already actively represented by another union.

** This figure can vary from the number of employees originally applied for. In some cases, two or more applications were received resulting in one vote and thus one group of eligible voters.

TABLE 10

APPLICATIONS FOR THE APPOINTMENT OF AN OFFICER TO SETTLE A GRIEVANCE UNDER AN EXISTING COLLECTIVE AGREEMENT DISPOSED OF 1983-1984

NATURE OF THE DISPOSITION	NUMBER OF APPLICATIONS 1983	1984
Settled		
1. Issue Disputed		
a) Advantage to Union	270	203
b) Advantage to Employer	79	61
c) Advantage Not Decisive	45	37
d) Advantage Unknown	38	66
2. Issue Not Disputed	29	32
SUB-TOTAL	461	399
Board Arbitration		
1. Issue Disputed		
a) Advantage to Union	14	14
b) Advantage to Employer	12	5
2. Issue Not Disputed	18	32
SUB-TOTAL	44	51
Referred Back		
(All Issues Disputed; Advantage Unknown)	178	141
Not Arbitrable (all issues disputed)		
a) Advantage to Union	1	0
b) Advantage to Employer	4	3
SUB-TOTAL	5	3
Withdrawn	6	2
TOTAL	694	596

cont.

TABLE 10 (cont.)

APPLICATIONS FOR THE APPOINTMENT OF AN OFFICER TO SETTLE A GRIEVANCE UNDER AN EXISTING COLLECTIVE AGREEMENT DISPOSED OF 1983-1984

NATURE OF THE DISPOSITION	NUMBER OF APPLICATIONS 1983	1984
Summary		
1. Issue Disputed		
a) Advantage to Union	285	217
b) Advantage to Employer	95	69
c) Advantage Not Decisive	45	44
d) Advantage Unknown	216	207
SUB-TOTAL	641	537
2. Issue Not Disputed	47	57
3. Withdrawn	6	2
TOTAL	694	596

Note: "Board Arbitration" includes all decisions by the Board finalizing a grievance, even though a formal Order may not have been issued.

The advantage goes to the trade union if they gain anything at all from filing the application.

"Not Decisive" includes those withdrawn because it was decided to process the grievance through other means.

"Not Disputed" covers those situations where the employer acknowledges the legitimacy of the grievance but is unable to settle because of financial difficulties.

TABLE 11

APPLICATIONS FOR THE APPOINTMENT OF AN OFFICER TO SETTLE A GRIEVANCE UNDER AN EXISTING COLLECTIVE AGREEMENT DISPOSED OF IN 1984

GRIEVANCE PERTAINED PRINCIPALLY TO *	NUMBER OF APPLICATIONS
1. Wages	130
2. Dismissal or suspension	127
3. Layoff	68
4. Use of non-union personnel (including subcontractors)	66
5. Contributions for fringe benefits	61
6. Allocation of work	35
7. Reprimand	20
8. Hours of work (including vacations, leaves of absence)	13
9. Work expenses	9
10. Seniority	8
11. Job Classification	7
12. Promotion	6
13. Union dues	6
14. Demotion	5
15. General collective agreement compliance	5
16. Job Posting	4
17. Sickness and accident benefit	3
18. Transfer	3

cont.

TABLE 11 (cont.)

APPLICATIONS FOR THE APPOINTMENT OF AN OFFICER
TO SETTLE A GRIEVANCE UNDER AN EXISTING
COLLECTIVE AGREEMENT DISPOSED OF IN 1984

GRIEVANCE PERTAINED PRINCIPALLY TO *	NUMBER OF APPLICATIONS
19. Job description	3
20. Jurisdiction	2
21. Inclusion of a position in the bargaining unit	2
22. Safety	2
23. Retirement benefit	2
24. Grievance procedure	1
25. Training	1
26. Job Action	1
27. Job evaluation	1
28. Dental coverage	1
29. Benefit information	1
30. Employee discount	1
31. Accountant's fee	1
32. Contribution to Jurisdictional Assignment Plan fund	1

* Frequently an application indicated more than one type of grievance involved. However, for the above analysis, the apparent major cause of the dispute was chosen to characterize the application.

TABLE 12

APPLICATIONS FOR THE APPOINTMENT OF AN OFFICER TO SETTLE A GRIEVANCE UNDER AN EXISTING COLLECTIVE AGREEMENT DISPOSED OF IN 1984

INDUSTRY	FILED BY UNION	FILED BY EMPLOYER	TOTAL
Manufacturing			
Food & Beverage	17	0	17
Wood Products	20	0	20
Metals (Refining & Fabrication)	17	0	17
Machinery, Transportation Equipment, Electrical Products	15	1	16
Miscellaneous	33	0	33
SUB-TOTAL	102	1	103
Construction	99	0	** 100
Trade and Service			
Trade	38	1	** 40
Education & Health	38	7	** 46
Municipal	16	0	16
Miscellaneous	232	2	* 234
SUB-TOTAL	324	10	336
Other Industries			
Mining	15	0	15
Transportation	39	3	42
Communications & Other Utilities	0	0	0
SUB-TOTAL	54	3	57
TOTAL	579	14	** 596

* 170 of these originated in the hotel, restaurant and beverage dispensing industry.

** Two applications were filed jointly by an employer and a union and one was filed by an accredited employer's organization.

cont.

TABLE 12 (cont.)

APPLICATIONS FOR THE APPOINTMENT OF AN OFFICER
TO SETTLE A GRIEVANCE UNDER AN EXISTING
COLLECTIVE AGREEMENT DISPOSED OF IN 1984

ANALYSIS OF APPLICATIONS FILED BY AN EMPLOYER

EMPLOYER NAME	NUMBER OF APPLICATIONS
Mater Misercordiae Hospital	2
Western Carriers Ltd.	2
Annacis Auto Terminals Ltd.	1
Army, Navy and Air Force Veterans in Canada, Unit No. 305	1
Halcyon Community Home Society	1
Mid-Valley Lumber Ltd.	1
Perfect Building Maintenance Ltd.	1
School District No. 1 (Fernie)	1
School District No. 32 (Hope)	1
Trail Intermediate Care Society	1
Vancouver Shipyards Co. Ltd.	1
Victorian Hospital of Kaslo	1
TOTAL	14

cont.

TABLE 12 (cont.)

APPLICATIONS FOR THE APPOINTMENT OF AN OFFICER
TO SETTLE A GRIEVANCE UNDER AN EXISTING
COLLECTIVE AGREEMENT DISPOSED OF IN 1984

ANALYSIS OF APPLICATIONS FILED BY UNIONS AGAINST EMPLOYERS	
Number of employers subject to 1 application	286
2 applications	58
3 applications	15
4 applications	12
5 applications	4
6-10 applications	5
11-15 applications	1
more than 15 applications	1
Total employers	382
Total applications	579

TABLE 13

APPEALS DISPOSED OF IN 1984

TYPE OF DECISION BEING RECONSIDERED	DISMISSED	VARIED	REVERSED	WITHDRAWN	TOTAL
Certification	30	3	5	8	46
Appeal of a certification decision	5	0	0	1	6
Appeal of an appeal of a certification decision	0	0	1	0	1
Vote re: certification	6	0	3	1	10
Variance of certification	9	1	1	1	12
Vote re: variance of certification	1	0	0	0	1
Cancellation of a certification	3	0	1	0	4
Vote re: cancellation of certification	2	0	0	1	3
Variance of accreditation	1	1	1	0	3
Declaration of successor status	7	3	1	2	13
The disposition of a grievance under an existing collective agreement	0	3	0	1	4

cont.

TABLE 13 (cont.)

APPEALS DISPOSED OF IN 1984

TYPE OF DECISION BEING RECONSIDERED	DISMISSED	VARIED	REVERSED	WITHDRAWN	TOTAL
Unfair labour practice adjudication	21	2	2	2	27
Appeal of an unfair labour practice adjudication	1	1	1	0	3
Appeal of an appeal of an unfair labour practice adjudication	1	0	0	0	1
A Board ruling re: an interpretation of the Labour Code as it applies to the collective bargaining relationship	7	0	1	4	12
Appeal of a Board ruling re: an interpretation of the Labour Code as it applies to the collective bargaining relationship	1	0	0	0	1
Appeal of an appeal of a Board ruling re: an interpretation of the Labour Code as it applies to the collective bargaining relationship	1	0	0	0	1
A Board ruling re: more than one corporate entity being considered as one employer	12	1	1	0	14

cont.

TABLE 13 (cont.)

APPEALS DISPOSED OF IN 1984

TYPE OF DECISION BEING RECONSIDERED	DISMISSED	VARIED	REVERSED	WITHDRAWN	TOTAL
Appeal of a Board ruling re: more than one corporate entity being considered as one employer	3	0	0	0	3
A Board ruling pertaining to alleged illegal strikes, lockouts and/or picketing	15	4	0	5	24
Appeal of a Board ruling pertaining to alleged illegal strikes, lockouts and/or picketing	1	1	0	0	2
A Board review of an arbitration award	6	0	0	0	6
A Board ruling re: a request to claim damages	1	0	0	0	1
A Board ruling re: collective agreement compliance	2	1	0	0	3
A Board ruling re: a request for an opinion pertaining to a collective agreement clause	1	0	1	0	2
A Board ruling re: religious exemption	2	0	0	1	3
A Board ruling re: a breach of a settlement agreement	1	0	0	0	1

cont.

TABLE 13 (cont.)

APPEALS DISPOSED OF IN 1984

TYPE OF DECISION BEING RECONSIDERED	DISMISSED	VARIED	REVERSED	WITHDRAWN	TOTAL
A Board ruling re: union financial statements	1	0	0	0	1
A Board ruling re: procedure	2	0	0	1	3
TOTAL	143	21	19	28	211

APPELLANT(S)	DISMISSED	VARIED	REVERSED	WITHDRAWN	TOTAL
Employer	64	8	4	16	92
Union	53	10	11	11	85
Employee(s)	22	2	1	1	26
Employer and Union	2	0	1	0	3
Employer and Employee(s)	1	1	0	0	2
Accredited Association	0	0	2	0	2
Building Trades Council	1	0	0	0	1
TOTAL	143	21	19	28	211

TABLE 14

APPLICATIONS FOR A BOARD ORDER OR OPINION
PERTAINING TO ALLEGED ILLEGAL STRIKES,
LOCKOUTS, AND/OR PICKETING DISPOSED OF IN 1984

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
A. Dispute settled by an investigating officer or a Panel of the Board			
1. re alleged illegal lockout	5	2	0
2. re alleged illegal strike	29	1	0
3. re alleged illegal strike and picketing	5	0	0
4. re picketing (employer complaint)	55	8	0
5. re picketing (trade union application for a declaratory opinion)	16	0	0
6. re activity affecting business, etc. (S.90)	6	0	0
SUB-TOTAL	116	11	0
B. Dispute disposed of by a Board adjudication that a violation had occurred or would occur or that a specific activity should be restricted			
1. re alleged illegal lockout	1	1	1

cont.

TABLE 14 (cont.)

APPLICATIONS FOR A BOARD ORDER OR OPINION PERTAINING TO ALLEGED ILLEGAL STRIKES, LOCKOUTS, AND/OR PICKETING DISPOSED OF IN 1984

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
2. re alleged illegal strike			
- work stoppage	7	7	5
- refusal to perform certain duties	3	3	2
3. re alleged illegal strike and picketing			
- work stoppage	** 14	14	13
4. re picketing (employer complaint)			
- alleged ally	1	1	1
- common site	9	9	9
- alleged secondary location	15	15	14
- other	8	7	5
5. re picketing (trade union application for a declaratory opinion)			
- alleged ally	3	3	1
6. re activity affecting business, etc. (S.90)	2	2	2
SUB-TOTAL	63	62	53

** 8 of these applications were successful in respect of the picketing only.

cont.

TABLE 14 (cont.)

APPLICATIONS FOR A BOARD ORDER OR OPINION
PERTAINING TO ALLEGED ILLEGAL STRIKES,
LOCKOUTS, AND/OR PICKETING DISPOSED OF IN 1984

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
C. Dispute disposed of:			
(a) by a Board adjudication that no violation had occurred or would occur or that a specific activity should not be restricted, or			
(b) by the Board refusing to rule on the proceedings			
1. re alleged illegal lockout	3	3	3
2. re alleged illegal strike (trade union application for a declaratory opinion)	1	1	1
3. re alleged illegal strike - refusal to perform certain duties	2	1	1
4. re alleged illegal strike and picketing - work stoppage	1	0	0
5. re picketing (employer complaint)			
- common site	1	1	1
- alleged secondary location	20	20	20
- ally	1	1	1
- other	1	1	1
6. re picketing (trade union application for a declaratory opinion)			
- alleged ally	1	1	1

cont.

TABLE 14 (cont.)

APPLICATIONS FOR A BOARD ORDER OR OPINION
PERTAINING TO ALLEGED ILLEGAL STRIKES,
LOCKOUTS, AND/OR PICKETING DISPOSED OF IN 1984

TYPE OF APPLICATION	NUMBER OF APPLICATIONS	AT A FORMAL HEARING	IN A FORMAL DECISION *
7. re activity affecting business, etc. (S.90)	1	1	1
SUB-TOTAL	32	30	30
TOTAL	211	103	83

* In 1983, the Board changed its procedures regarding published decisions. Letter decisions and formal decisions were consolidated into one series. Statistics for 1983 on reflect this consolidated series and cannot be compared with previous years where only formal decisions were considered.

Note: The applications in Table 14 include those filed to avert threatened strikes, lockouts, and/or picketing (through a declaratory opinion, a jurisdictional decision, etc.) as well as those protesting some form of actual job action.

TABLE 15

APPLICATIONS FOR A BOARD ORDER OR OPINION
PERTAINING TO ALLEGED ILLEGAL STRIKES,
LOCKOUTS, AND/OR PICKETING DISPOSED OF IN 1984

INDUSTRY *	FILED BY EMPLOYER(S) **	FILED BY UNION	TOTAL
Manufacturing			
Food & Beverage	4	0	4
Wood Products	58	1	59
Metals (Refining & Fabrication)	0	0	0
Machinery, Transportation Equipment, Electrical Products	1	1	2
Miscellaneous	11	1	12
SUB-TOTAL	74	3	77
Construction	56	6	62
Trade and Service			
Trade	11	7	18
Education & Health	10	2	12
Municipal	3	2	5
Miscellaneous	12	5	17
SUB-TOTAL	36	16	52
Other Industries			
Mining	1	0	1
Transportation	12	7	19
Communications & Other Utilities	0	0	0
SUB-TOTAL	13	7	20
TOTAL	179	32	211

* Based on applicant's type of business.

** Not necessarily the employer of the respondents.

TABLE 16

APPLICATIONS FILED IN 1984 ANALYZED BY UNION

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	CERTIFICATION APPLICATIONS FILED BY	DECERTIFICATION APPLICATIONS FILED AGAINST	UNFAIR LABOUR PRACTICE COMPLAINTS FILED BY	APPOINTMENT OF AN OFFICER APPLICATIONS FILED BY
Boilermakers	3	1	1	3
Bricklayers	3	0	0	1
C.L.A.C.	4	0	0	2
Carpenters	46	19	9	59
Electrical Workers	12	3	0	7
Elevator Constructors	0	0	0	1
Glaziers & Glass Workers	4	3	0	4
Heat & Frost Workers	0	0	0	1
Iron Workers	17	4	2	15
Labourers	42	9	6	16
Machinists & Aerospace Workers	7	8	9	5
Operating Engineers	19	9	4	53
Painters	3	2	0	7
Plasterers	3	2	0	8
Plumbers	10	3	1	22
Sheet Metal Workers	2	5	1	10
Tilesetters	0	0	0	3
C.P.U.	1	0	2	4
Cariboo Woodworkers Association Assoc.	0	0	0	1
I.W.A.	16	9	13	10
P.P.W.C.	0	0	4	15

cont.

TABLE 16 (cont.)

APPLICATIONS FILED IN 1984 ANALYZED BY UNION

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	CERTIFICATION APPLICATIONS FILED BY	DECERTIFICATION APPLICATIONS FILED AGAINST	UNFAIR LABOUR PRACTICE COMPLAINTS FILED BY	APPOINTMENT OF AN OFFICER APPLICATIONS FILED BY
C.U.T.E.	0	0	0	21
Marine Workers	1	1	1	6
Merchant Service	2	0	0	0
Teamsters	26	19	12	36
Transit Union (ATU)	1	0	0	2
Transit Union (ICTU)	1	0	2	0
Transport & General Workers	2	0	1	3
United Transportation Union	0	0	0	1
Musicians	1	0	0	0
N.A.B.E.T.	1	0	0	0
Service Employees	6	3	8	16
Service, Office, Retail Workers	1	1	3	0
Theatrical Stage Employees et al	1	2	3	0
Fire Fighters	0	0	0	1
Police Officers	0	0	1	0
CHAW	1	2	4	1
Hospitality Workers	2	1	5	13
Hotel Employees	26	11	24	165
Restaurant and Related Employees	0	0	1	0

cont.

TABLE 16 (cont.)

APPLICATIONS FILED IN 1984 ANALYZED BY UNION

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	CERTIFICATION APPLICATIONS FILED BY	DECERTIFICATION APPLICATIONS FILED AGAINST	UNFAIR LABOUR PRACTICE COMPLAINTS FILED BY	APPOINTMENT OF AN OFFICER APPLICATIONS FILED BY
Health Sciences Association	2	0	0	4
Hospital Employees' Union	7	1	12	5
Nurses	5	0	0	1
Residents & Interns	2	0	0	0
Clothing Workers	1	1	0	0
Newspaper Guild	0	1	2	1
Graphic Communication	5	1	3	1
Typographical Union	1	0	3	0
Auto Workers	0	1	0	0
CAIMAW	3	3	6	10
Energy & Chemical Workers	2	2	0	0
Mine Workers	0	1	0	0
Steelworkers	6	4	0	19
Food & Commercial Workers	1	2	4	29
Retail Clerks	5	12	5	8
Retail, Wholesale Employees	1	7	0	0
Textile Processors, Service Trades, et al	3	0	0	0

cont.

TABLE 16 (cont.)

APPLICATIONS FILED IN 1984 ANALYZED BY UNION

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	CERTIFICATION APPLICATIONS FILED BY	DECERTIFICATION APPLICATIONS FILED AGAINST	UNFAIR LABOUR PRACTICE COMPLAINTS FILED BY	APPOINTMENT OF AN OFFICER APPLICATIONS FILED BY
Bakery Workers	1	1	0	0
Brewery Workers	0	1	0	0
Can. Farmworkers Union	1	2	6	0
Food & Service Workers	0	1	1	0
General Farm & Allied Workers	3	0	1	0
United Fishermen	0	1	0	0
A.C.T.E.	1	0	0	0
C.U.P.E.	4	2	5	22
O.T.E.U.	4	1	1	5
Union of Bank Employees	0	0	1	0
B.C.G.E.U.	1	2	2	2
Professional Employees	1	0	1	0
Vancouver Municipal & Regional Employees Union	4	0	3	0
A.U.C.E.	1	0	1	1
Faculty Association	0	0	3	5

cont.

TABLE 16 (cont.)

APPLICATIONS FILED IN 1984 ANALYZED BY UNION

UNION NAME (Names have been abbreviated. Where possible, the commonly used, shortened form appears.)	CERTIFICATION APPLICATIONS FILED BY	DECERTIFICATION APPLICATIONS FILED AGAINST	UNFAIR LABOUR PRACTICE COMPLAINTS FILED BY	APPOINTMENT OF AN OFFICER APPLICATIONS FILED BY
Single Employer				
Independent Union	3	0	2	2
Employee(s)	0	0	*** 138	0
Employer(s)	0	0	15	16
TOTAL APPLICATIONS FILED	* 332	** 164	332	**** 643

* One application was filed jointly by the Operating Engineers, the Labourers and the Teamsters and one by the Carpenters and the Labourers.

** Four applications were filed by unions and one, jointly by an employer and a union.

*** Includes 136 applications filed by employees against their unions.

**** Two applications were filed jointly, one by an employer and the Teamsters and one by an employer and C.U.P.E.

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